

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION

MATHIS KEARSE WRIGHT, JR., : Case No. 1:14-CV-42-WLS
:
PLAINTIFF :
vs. : December 12, 2017
: Albany, Georgia
SUMTER COUNTY BOARD OF :
ELECTIONS AND REGISTRATION, :
: Volume 2 of 4
DEFENDANT. :

NON-JURY TRIAL
BEFORE THE HONORABLE W. LOUIS SANDS
UNITED STATES DISTRICT JUDGE, PRESIDING

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P R O C E E D I N G S

December 12, 2017

THE COURT: All right. Good morning.

COUNSEL: Good morning, Your Honor.

THE COURT: All right. Mr. Sells, I believe you were completing your redirect; is that right?

MR. SELLS: Yes, sir, I was.

THE COURT: All right. You may continue.

MR. SELLS: Thank you.

FREDERICK MCBRIDE

Witness, having previously been sworn, testified on

CONTINUED REDIRECT EXAMINATION

BY MR. SELLS:

Q. Good morning, Dr. McBride.

A. Good morning.

Q. I'd like to begin this morning by asking you a few follow-up questions about the 2004 sheriff's race that you analyzed. Do you remember Ms. McKnight asking you a few questions about that?

A. I do.

Q. Okay. Let's start by looking at Plaintiff's Exhibit 21 and let's zoom in on that a little bit. So as you can see there are a large number of write-in votes, and I believe Ms. McKnight asked you how you know that those were cast for Nelson Brown. Do you

1 remember that?

2 A. I do.

3 Q. And you mention seeing some election returns that
4 may have come from the state archives?

5 A. Correct.

6 Q. I would like to show you Plaintiff's Exhibit 31-C.
7 Do you recognize this document?

8 A. I do.

9 Q. What is it?

10 A. It is the Consolidated Municipal County
11 Certification of Returns.

12 Q. For which election?

13 A. The November 2nd, 2004, Sumter County sheriff --
14 well, I see Nelson Brown, sheriff, and write-in votes.
15 I assume they are write-in votes. Yes, they are
16 write-in votes for Ralph Nader.

17 Q. Okay. So this document reflects that Nelson Brown
18 received write-in votes for Sumter County sheriff,
19 right?

20 A. Correct.

21 Q. Do these returns indicate that anyone other than
22 Nelson Brown received write-in votes in the sheriff
23 race?

24 A. No, they don't.

25 Q. Do these returns indicate how many write-in votes

1 Nelson Brown received in each precinct?

2 A. No, they don't.

3 Q. Don't you need precinct level election returns in
4 order to conduct your racial block voting analysis?

5 A. I do.

6 Q. Well, let's go back to Plaintiff's Exhibit 21.
7 Does this exhibit contain the precinct level election
8 returns that you used for your racial block voting
9 analysis for the 2004 sheriff's race?

10 A. They do.

11 Q. Now, Ms. McKnight asked you about the large number
12 of absentee ballots cast in this election. Do you
13 remember that?

14 A. I do.

15 Q. And I think I heard you say that Georgia did not
16 begin allocating absentee votes back to the voters
17 precinct until 2010. Did I get that right?

18 A. Correct.

19 Q. So let me make sure I understand what that means.
20 Before 2010, if I'm a voter in the Andersonville
21 precinct in Sumter County, and I cast an absentee
22 ballot, where does my vote show up in the election
23 returns?

24 A. On the line item that states absentee.

25 Q. Could you point that out on the screen, please?

1 A. I'm sorry, I don't have my stylus, but I'll use my
2 finger. Well --

3 Q. Okay. So before 2010, if I'm an Andersonville
4 voter and I cast an absentee ballot, it is aggregated
5 in this absentee ballot precinct, right?

6 A. Correct.

7 Q. Now, after 2010, if I am a voter in the
8 Andersonville precinct and I cast an absentee ballot,
9 where does my vote show up in the election returns?

10 A. It would then show, after 2010, on the line item
11 for -- I think you said Andersonville -- Andersonville.

12 Q. What is the racial composition of the voters in
13 the absentee ballot precinct in Exhibit 21?

14 A. The racial composition?

15 Q. Yes. Do we know?

16 A. No, I wouldn't know.

17 Q. Is this issue of absentee ballot precincts unique
18 to Georgia?

19 A. No.

20 Q. Do you know how other experts in the field deal
21 with absentee ballot precincts?

22 A. We can't -- when you don't know where they're
23 aggregated to, we can't include them in the analysis.
24 So it was fortunate that the state passed that law.

25 Q. In 2010?

1 A. In 2010.

2 Q. That changed the way that absentee ballots are
3 treated?

4 A. Exactly.

5 Q. Okay. So how did you deal with absentee ballot --
6 with the absentee ballot precincts in your analysis of
7 the 2004 general election for sheriff?

8 A. I could not include it in the summary analysis for
9 polarized voting or cohesion. I couldn't include it in
10 the analysis.

11 Q. Could any other expert, say, Lisa Handley, Bernie
12 Grofman, David Lublin, some of them that you've
13 mentioned during your testimony, could they have done
14 anything different?

15 A. No.

16 Q. Does excluding the absentee ballot precinct under
17 undermine your confidence in the racial block voting
18 estimates that you produced using EI for this contest?

19 A. They do not.

20 Q. Why not?

21 A. Well, one, I can't -- I have no way to determine
22 what kind of effect -- I can only use what -- the data
23 that's provided, the data that we have. I can
24 speculate, but I can't put -- I can't speculate and
25 write that into my report.

1 Q. Dr. McBride, I'd like to ask you some follow-up
2 questions now about the data that you used in your
3 analyses. If I understood her question correctly, Ms.
4 McKnight asked you at one point whether you had used
5 demographic data from the American Community Survey
6 rather than the 2010 census data in any of your racial
7 block voting analyses. Do you remember that?

8 A. I do.

9 Q. Now, both the American Community Survey and the
10 2010 census will tell you the voting age population of
11 Sumter County, right? They will give you a number for
12 voting age population?

13 A. Yes. Yes.

14 Q. How is data from the 2010 census derived?

15 A. Data from the 2010 census is derived from the
16 census bureau after April 1st every ten years, and so
17 that's the methodology used by the census to count
18 everyone in any jurisdiction in the country.

19 Q. And how is data from the American Community Survey
20 derived?

21 A. Data from the American Community Survey is
22 aggregate data over a certain time period. This
23 particular jurisdiction, the five-year estimates are
24 the -- probably the best estimates. Larger cities,
25 they're done every year, but it is survey data, so it

1 randomly selects certain numbers of people and from
2 that sampling, it derives these estimates because
3 that's what they are.

4 Q. Thank you. Now, when you used voting age
5 population data from the 2010 census in your racial
6 block voting analysis, what level of census geography
7 did you use to determine the racial composition of
8 Sumter County's voting precincts?

9 A. I use census block.

10 Q. Census block?

11 A. The block, yes.

12 Q. Can you explain what a census block is?

13 A. It is a designated area. It's the lowest level of
14 geography for the census. And you use that to build to
15 higher levels. For example, block groups, census
16 tracts, and those can be confined within particular
17 jurisdictions, sometimes extending outside. But the
18 census block is the lowest level. It's basically, in
19 my opinion, the building block when drawing districts.

20 Q. You mentioned the census block group and a census
21 tract, can you explain briefly what those two things
22 are?

23 A. A collection of census blocks in a particular area
24 would be the block group, and a collection of those
25 groups will take you to the next level, which would be

1 the tract. It's going to have greater population, more
2 people as you extend toward the very next level. So
3 they're like building blocks, if you will.

4 Q. It's a hierarchy?

5 A. Yes, it is.

6 Q. Now, does the American Community Survey report
7 voting age population at the census block level?

8 A. It does not.

9 Q. At what level does the American Community Survey
10 report voting population data?

11 A. At the block group level.

12 Q. Could you have used block group data to determine
13 the racial demographics of Sumter County's voting
14 precincts?

15 A. One could. I don't know anyone who does, because
16 it's going to be less reliable because they're groups,
17 and then you would have to aggregate or attempt to
18 aggregate those groups into blocks, and that's somewhat
19 complicated, but it is not going to give you a high --
20 a more reliable estimate than if you use the actual
21 census data, which isn't an estimate.

22 Q. Do block group boundaries follow the boundaries of
23 Sumter County's voting precincts?

24 A. Not necessarily, no.

25 Q. So there could be split block groups?

1 A. Absolutely.

2 Q. And how would you deal with a split -- with a
3 block group that split a precinct if you were trying to
4 use block group data to determine voting age
5 population?

6 A. Well, we do that, particularly when the
7 methodology requires something like census voting -- I
8 mean citizen voting age population. You would do that
9 if you were assessing Hispanic voters and the citizen
10 voting age population of that. You have to use black
11 groups. It's a complicated process, and in the end
12 you're aggregating -- or you're attempting to aggregate
13 to the block -- the census block level. But because in
14 some particular issues you do need that citizen voting
15 age population, you have to do that extra step and do
16 it properly to get the most reliable estimates. And
17 it's a -- there's a methodology involved, it's just not
18 necessary if you are drawing the district because it's
19 better to just use the census data.

20 Q. So in this case using data from the census at the
21 block level produced more reliable estimates of voting
22 age population in your view than the American Community
23 Survey would have?

24 A. Yes. That is -- that is the best estimate if
25 you're going to use census data.

1 Q. Ms. McKnight also asked you about whether you had
2 analyzed the voting behavior of Sumter County's
3 Hispanic population. Do you remember that?

4 A. I remember.

5 Q. According to my notes, I think you said that the
6 Hispanic population of Sumter County is about
7 5.2 percent? Does that sound about right?

8 A. It does.

9 Q. And I think you said that you weren't asked to
10 analyze Hispanic voting behavior in this case; is that
11 right?

12 A. That is correct.

13 Q. Have you ever tried analyzing the voting behavior
14 of a racial or ethnic group that constitutes only
15 5.2 percent of the larger population?

16 A. I have not.

17 Q. Would it be possible to do that?

18 A. One could do it and then argue over their
19 methodology and how significant their results are.
20 But, again, I have done this analysis with Hispanic
21 voters, naive American voters, but no one has ever had
22 a percentage that low.

23 Q. Ms. McKnight showed you a graphic that listed a
24 lot of different ethnic groups in Sumter County, some
25 of which were .1 percent for naive Hawaiians, let's

1 say. I'm just making that up, but if you had a
2 population that small, would it make any sense to try
3 to estimate the voting behavior of those two or three
4 people?

5 A. You wouldn't be able to derive reliable estimates,
6 nor would you be able to really conduct the
7 methodology. You would have a lot of precincts with no
8 Hispanic voters or Asian voters or native American
9 voters in them.

10 Q. Now, Dr. McBride, I want to turn to table 12 from
11 your supplemental report, which is Plaintiff's Exhibit
12 6 at page 23. Ms. McKnight asked you a few questions
13 about whether your analysis here actually indicates
14 that African American voters have an opportunity to
15 elect candidates to the at-large seats in the existing
16 plan in future elections. Do you remember those
17 questions?

18 A. I do.

19 Q. Does your analysis reflected in table 12 identify
20 any differences between how districts perform for
21 African American candidates when the district is
22 majority black, compared to when it is not majority
23 black?

24 A. Yes.

25 Q. And what factors shown by your analysis here lead

1 to that different performance?

2 A. Well, it's the white and black participation
3 rates, and, moreover, it's the cohesion and crossover
4 rates.

5 Q. Can you explain what you mean? How are those
6 three things different in majority black districts
7 versus not majority black districts? Can you indicate
8 on the screen what you're looking at? Let's start with
9 white participation.

10 A. The white participation is greater in districts
11 two and districts -- there we go -- districts two and
12 districts three, and the crossover or the rate of
13 crossover is lower in those two particular districts,
14 two and three, but a bit higher in districts one and
15 districts five.

16 Q. And how does black participation compare in
17 majority black districts versus non-majority black
18 districts?

19 A. In the majority black districts, the African
20 American participation rates are higher -- I can't
21 write on here -- are higher than, again, in the
22 districts that are majority white.

23 Q. Now, is the at-large district at issue in this
24 case majority black in voting age population or not
25 majority black in voting age population?

1 A. It's not majority black in voting age population.

2 Q. And based on your racial block voting analysis of
3 the 2014 and 2016 elections has the at-large district
4 performed more like these majority black districts in
5 table 12 or more like the districts in table 12 that
6 are not majority black?

7 A. More like the districts in table 12 that are not
8 majority black.

9 Q. Okay. I'd like to look at that a little bit more
10 closely. And let's focus first on the white turnout
11 rates or the white political participation rates.
12 We're going to put side by side on the screen your
13 table 12 from your report with table ten from your
14 report, which is Plaintiff's Exhibit 16 -- can we
15 shrink down the blow-up? There we go. Can you see
16 those numbers?

17 A. I can.

18 Q. Dr. McBride?

19 A. I can.

20 Q. All right. So I'd like you to compare first the
21 -- well, let's do it this way. On table ten would you
22 identify the white turnout rates in the at-large
23 elections that you analyzed?

24 A. In the 2016 race, the white participation turnout
25 rate is 14.3, and the 2014 two-year it's 11.1 and the

1 four-year is 11.2, and the runoff race in July, the
2 white participation is 8.2.

3 Q. Okay. Sticking with the general instead of the
4 runoff, these three numbers here, how does white
5 political participation compare to white political
6 participation in the majority black districts in your
7 analysis in table 12?

8 A. In the at-large races the white participation or
9 turnout rate is higher than those in districts one and
10 district five which are majority African American
11 districts.

12 Q. Okay. Let's look at cohesion and crossover.
13 Well, actually let's stick with that one. Go back to
14 the previous one because we didn't look at black
15 political participation rates. So, how do black -- how
16 does black political participation in the at-large
17 general elections compare to black political
18 participation in the black majority districts?

19 A. They mirror, for example, the 2016 race at 8.4 and
20 district one, 8.6, and -- well, the rate between 6.7
21 and 8.4, and in table 12, 8.6 and 9.3. So they are --
22 the participation rate is somewhat similar.

23 Q. 6.7 is about 20 percent lower than 8.4, though,
24 isn't it?

25 A. Yes, yes, yes, yes.

1 Q. Now, let's look at the cohesion and crossover
2 rates. And I'd like to put your table 12 side by side
3 with Plaintiff's Exhibit 10, which your racial block
4 voting analysis of the at-large race -- races. Do you
5 see that?

6 A. I do.

7 Q. Which at-large race are we looking at here, for
8 example?

9 A. That's the May 20, 2014 four-year at-large race.

10 Q. Okay. Now, how do the black votes for the black
11 candidate, in other words, cohesion compare between
12 this at-large race and the races on table 12?

13 A. On table 12, if you look at district two, the
14 cohesion -- I'm sorry, did you ask me about cohesion or
15 crossover?

16 Q. I'm asking you first about cohesion.

17 A. The black cohesion, 99.3, 96.7. That's not a very
18 significant difference. And in district five it's 85.3
19 and 96, a bit more of a difference, but not highly
20 significant enough to make it not significant or not
21 somewhat similar.

22 Q. Okay. And now let's look at white crossover
23 voting in your table 4, which is Exhibit 10.

24 A. So looking at district two in white crossover
25 voting, that's 5.8, and the white support for Kelvin

1 Pless is 5.8, and in district -- well, in doing
2 district five 13.9 is a bit higher than 5.8, but
3 district two and the white crossover rate in the table
4 to the right are practically the same.

5 Q. So, how does the white crossover for the black
6 candidate in the at-large election compare to white
7 crossover for the black candidate in the majority black
8 districts that led you to conclude that a number in the
9 40s might be enough to give African American voters an
10 opportunity to elect in your district six in the
11 illustrative plan?

12 A. Okay. Can you state it again? It got a little
13 longer in the end.

14 Q. Sure. I'd like you to compare white crossover in
15 the at-large race to white crossover in the majority
16 black districts in table 12.

17 A. There is, in the majority black districts, the
18 crossover is a little -- somewhat higher than in
19 districts two and district three, for example. But I'm
20 not sure all that you're asking.

21 Q. Okay. Let me -- we have a lot of writing on the
22 screen. Let me clear it. What I'd like you to compare
23 is white crossover for Kelvin Pless in the at-large
24 election with white crossover for the black candidate
25 in the majority black districts.

1 A. In the majority black districts, the crossover
2 rate is significant higher.

3 Q. And how does that affect black voters' ability to
4 elect their candidates of choice?

5 A. There is some degree, perhaps significant enough,
6 of white support for the black candidate that helps
7 enable that black candidate to win in those two
8 districts.

9 Q. Now, based on your estimates of white turnout,
10 black turnout, black cohesion, and white crossover
11 voting in the at-large elections held under House Bill
12 836, do you have any reason to believe that the voting
13 age population in the at-large district is sufficient
14 to give African American voters a meaningful and
15 realistic opportunity to elect candidates of their
16 choice in future elections?

17 A. In the current system, correct?

18 Q. Let me ask my question again.

19 A. Okay.

20 Q. Based on your estimates of white turnout, black
21 turnout, black cohesion, and white crossover voting in
22 the at-large elections held in the past under House
23 Bill 836, do those numbers give you any reason to think
24 that the voting age population in the at-large district
25 under House Bill 836 would allow African American

1 voters to elect candidates of their choice in the
2 at-large seats in future elections?

3 **A.** No, no.

4 **MR. SELLS:** Your Honor, that concludes my
5 redirect, but I would like to offer two exhibits at
6 this point. We referred to Exhibit 31-C. I'd like to
7 offer all of Exhibit 31, and I'd also like to offer
8 Exhibit 33.

9 **THE COURT:** You said all of 31, and then you
10 say 31-C?

11 **MR. SELLS:** 33. Your Honor, Exhibit 31 is a
12 multipart exhibit, and we only looked at one of those
13 parts, but the remaining parts are a complete set of
14 Sumter County election returns, and I think there's no
15 objection to them.

16 **THE COURT:** When you mentioned 31-C, though,
17 31-C a part of 31?

18 **MR. SELLS:** Yes.

19 **THE COURT:** And 33 is the other?

20 **MR. SELLS:** 33 is a summary of the election
21 returns that we've produced.

22 **THE COURT:** All right. Ms. McKnight?

23 **MS. MCKNIGHT:** Yes, Your Honor, the objection
24 on 31-C, we have no objection to the exhibit itself,
25 but we will have an objection to the way it's been used

1 in testimony today as it relates to Dr. McBride's
2 report which is another exhibit. I don't believe
3 plaintiff's counsel has offered Dr. McBride's expert
4 report as an exhibit yet. The point on that, if he
5 intends not to offer his PX-6, his expert report as an
6 exhibit, the problem comes back to what we were
7 discussing yesterday about the data that was provided
8 in response to, not only discovery requests, but also
9 the disclosure requirement under the federal rules for
10 Dr. McBride's expert report. I'd like to go into issue
11 now because I believe Exhibit 31 includes some data
12 that Dr. McBride claims support his assertions in his
13 expert report and assertions he's made on the stand.
14 The issue here is that, first, it's nice that
15 plaintiffs have provided this document 31-C as an
16 exhibit at trial. That's what you saw on the screen a
17 few moments ago. The Consolidated Municipal County
18 Certification of Returns. This is Plaintiff's Trial
19 Exhibit C-31. But it only underscores the fact that
20 plaintiffs and expert could have also provided it under
21 the rules for the disclosure of expert reports and also
22 in response to discovery. And what's key here is not
23 only could they have, but should they have. Indeed,
24 rule -- and we can get into a discovery dispute about
25 what --

1 **THE COURT:** Well, we are not going to get
2 into a discovery dispute because discovery is closed,
3 and the Court in its initial order made it very
4 explicit that matters of discovery had to be raised
5 within 21 days of the production. So unless there is
6 something very unusual, we should not be discussing
7 discovery disputes at trial.

8 **MS. MCKNIGHT:** I understand, Your Honor, and
9 the point I was going to make is that Mr. Sells brought
10 up discovery request yesterday. We could go into
11 discovery requests. We don't need to. You don't need
12 to. It's all in the federal rules under Rule
13 26(a)(2)(B). It commands disclosure and production of
14 any data that Dr. McBride relied on in his reports.
15 Now, I've gone back, I've looked at his report to see
16 he cited or identified the data that's supporting the
17 2004 sheriff's race. How he cited it, it's simply not
18 enough. And you heard him on the stand yesterday say
19 that this is data from the archive. You look in his
20 report. The citation for it is not enough, and we've
21 discussed it with our expert, was this enough for you
22 to go back and find the data that he used to confirm
23 this number. Her answer was, no, it's not enough.
24 Now, 26(a)(2)(B) commands disclosure, and as you know
25 Rule 37(c) governs this. There was no requirement to

1 file a motion to compel. That's under 37(a). Rule
2 37(c) commands this disclosure. It was not made. This
3 document was not included with Dr. McBride's expert
4 report when it was provided to defendant.

5 **THE COURT:** We're talking about 31-C?

6 **MS. MCKNIGHT:** That's right, Your Honor, and,
7 you know, you heard testimony yesterday about it, that
8 they provided this document last week as a trial
9 exhibit is so far beyond when it was required to be
10 disclosed and when defendant's expert had a chance to
11 review it and identify what -- determine, and
12 defendants had a chance to review and determine whether
13 they needed to ask questions of Dr. McBride and examine
14 him in discovery.

15 **MR. SELLS:** May I be heard, Your Honor?

16 **THE COURT:** Yes, indeed.

17 **MR. SELLS:** Counsel for the Sumter County
18 Board of Elections and Registration is complaining
19 about not having access to a document prepared and
20 produced by the Sumter County Board of Elections and
21 Registration. It is an election return, Your Honor.
22 His predecessor and office signed that return. His
23 office presumably has either a copy of it or has access
24 to copies of it. Now --

25 **THE COURT:** I'm not concerned so much about

1 how she could have gotten it. The objection is that it
2 was a required part of the expert's opinion that he
3 used and that it was not produced as allegedly is
4 required to be produced under the rules.

5 **MR. SELLS:** Sure. And I disagree with that
6 assertion, Your Honor, because Dr. McBride's testimony
7 just a moment ago was that he did not use that page in
8 his analysis, because it didn't contain the precinct
9 returns. So that was not part of his analysis. And so
10 it was not required to be disclosed under Rule 26(a),
11 but the section, what Ms. McKnight is arguing is that
12 we should be subject to Rule 27(c) sanctions for
13 failure to disclose a document. Under Rule 37(c) even
14 if Dr. McBride had an obligation to disclose that he
15 looked at the document, it's harmless because it's
16 their document, and if it's harmless, it doesn't get
17 excluded under 37(c).

18 **THE COURT:** What I want to know is, was it a
19 part of his -- a basis for his opinion?

20 **MR. SELLS:** Dr. McBride's testimony just a
21 moment ago was that it did not contain the data that he
22 needed to do the analysis.

23 **THE COURT:** Now, if that's the case, what is
24 the objection?

25 **MS. MCKNIGHT:** Your Honor, there are two

1 points on this. If I may, it will be illustrative if I
2 put up Plaintiff's Exhibit 6, page, Bates number 142.
3 Your Honor, if you recall yesterday my line of
4 questioning to Dr. McBride about this issue was, how do
5 you know that this number of votes, write-in votes were
6 for Nelson Brown and not some other candidate. He said
7 he relied on this data from the archive -- and I'll get
8 to that point in a moment -- from the archive to
9 determine -- and if you look at the page on your
10 screen, in the very first box where it says write-in,
11 parens, Nelson Brown -- could you highlight that
12 portion? Write-in Nelson Brown. Dr. McBride testified
13 that he relied on the information, the data from the
14 archive, in order to determine that that parenthesis
15 should say Nelson Brown, and not Nelson Brown to the
16 exclusion of other write-in candidates. Nelson Brown,
17 but not Ralph Nader, Nelson Brown alone. He used that
18 data to say that Nelson Brown is the one who received
19 all of those write-in votes. So, yes, when he said he
20 relied on that data for this portion of his report, he
21 was saying to the Court this data was relied upon. So
22 Mr. Sells' assertions to the contrary do not fit with
23 the testimony from yesterday, and indeed don't fit with
24 what is your on screen right now in Dr. McBride's
25 report. The second issue. What you heard Mr. Sells

1 tell you is, if there is ever a government party, that
2 an expert witness on the other side should simply be
3 able to say they're archives and there are data in it
4 and somehow that government party should always be
5 expected to dig through the archives and find that
6 specific needle in a haystack, that that objection,
7 that burden should be on the government party. We
8 don't believe that's true. We don't believe that's
9 fair, and indeed the rules govern otherwise. There's
10 no exception for, you know, government parties or
11 archives. Their obligation is clear, and they failed
12 to meet it.

13 **THE COURT:** All right. When was this
14 document produced? I'll let you all argue in the
15 future about whether it was relied on or not. The
16 Court will remember the testimony of the witness.

17 **MR. SELLS:** The document was produced in
18 conjunction with the plaintiff's exhibits because it is
19 our view that it was not --

20 **THE COURT:** When? When, Mr. Sells?

21 **MR. SELLS:** That was December 6th, I think --
22 no, no, no, I'm sorry, it was December 4th. Objections
23 were December 6th, exhibits were December 4th.

24 **THE COURT:** All right. Okay. Provisionally
25 the Court is going to overrule the objection and allow

1 it. I have a real doubt about any harm here, and I
2 further have a real question about whether or not these
3 are matters that could have and should have been
4 brought to the Court attention earlier as a matter of
5 whether or not discovery has been complied with. I
6 think the parties are still free to argue whether or
7 not the witness's evidence -- or rather testimony is
8 supported by the evidence and whether it's supported by
9 matters that were unfairly -- untimely made available
10 to the defendant. I don't think it so voluminous a
11 matter. It was clearly gone into in great detail on
12 cross examination yesterday, and I don't suppose that
13 ultimately the defendant's witness will be hampered in
14 its ability to rebut the claims or the results or the
15 opinion held by this witness on the stand. So the
16 witness -- the objection is overruled. All right.
17 This is 31-C. That's the issue -- that is the document
18 that's in dispute as I understand it.

19 **MR. SELLS:** That is what we have been
20 discussing.

21 **MS. MCKNIGHT:** That's correct, Your Honor.

22 **THE COURT:** That's the Court ruling as to
23 31-C. The other 31 associated, there is no objection
24 as I understand; is that right?

25 **MS. MCKNIGHT:** That's right, Your Honor.

1 **THE COURT:** Okay. So 31 and its associated
2 exhibits are admitted, with the exception of 31-C which
3 the Court specifically allowed over objection and notes
4 the objection for the record. The others are admitted
5 without objection, and 33, I guess there was no
6 objection to that also; is that right? 33 I understand
7 was described as a summary?

8 **MR. SELLS:** Your Honor, I think I misspoke.
9 It should have been 34. 33 has already been admitted.

10 **THE COURT:** All right. 34, there's no
11 objection, then?

12 **MS. MCKNIGHT:** No objection, Your Honor.

13 **THE COURT:** All right. So 34 is admitted
14 without objection. You may continue.

15 **MR. SELLS:** Your Honor, that concludes my
16 redirect.

17 **THE COURT:** All right. Is there further
18 recross, Ms. McKnight?

19 **RECROSS EXAMINATION**

20 **BY MS. MCKNIGHT:**

21 **Q.** Good morning, Dr. McBride.

22 **A.** Good morning.

23 **Q.** I heard plaintiff's counsel ask you some questions
24 about the ACS data. Do you remember that testimony?

25 **A.** I do.

1 Q. And do you remember plaintiff's counsel asking you
2 about census blocks and census tracts?

3 A. I do.

4 Q. And I recall your testimony saying that down at
5 the census block level using ACS data may not be as
6 reliable as using census data. Is that fair?

7 A. It doesn't detail those estimates at the block
8 level.

9 Q. Okay. But does ACS data detail estimates at the
10 county level?

11 A. You have to aggregate to the county using the
12 blocks -- using the census block groups.

13 Q. But so you are able to use ACS data to aggregate
14 up to the county level; is that right?

15 A. One could. I don't draw districts with ACS data.

16 Q. And briefly, could we put up table 12 --

17 MS. MCKNIGHT: Pardon me, Your Honor.

18 THE COURT: All right.

19 Q. We are putting table 12 from Dr. McBride's expert
20 report. We were just discussing -- you were discussing
21 this on redirect, correct, Dr. McBride?

22 A. Correct.

23 Q. And now, when I look at this table it appears to
24 me that this data is from 2014; is that right?

25 A. Yes.

1 Q. So do I understand correctly that table 12 is
2 related to one election in 2014?

3 A. It's related to a series of those elections.

4 Q. What do you mean by series?

5 A. It was more than one election in 2014. So based
6 on the methodology used to derive this table, there
7 were white participation, black participation, and
8 rates of cohesion and crossover from various elections,
9 not just -- not just one.

10 Q. And by various elections, do you mean the election
11 for seat district one, that's one election; the
12 election for the seat in district two is another
13 election. Is that what you mean?

14 A. Right. Because the participation and -- the
15 participation rates based on the table used before,
16 they match. So previous elections were used in the
17 methodology to derive this table. I'm sorry.

18 Q. No, that's okay. I believe we probably -- I think
19 I can let that be. I think we've gotten enough
20 testimony on that point. My only other question is
21 that when you were looking at districts D-1 --

22 A. Yes.

23 Q. -- and D-5, would you consider those districts to
24 be supermajority districts and not just majority
25 districts with black voting age population?

1 **A.** Could you define supermajority?

2 **Q.** Have you ever used the term supermajority in your
3 work as a political scientist?

4 **A.** I have not used it. I've seen it in districts
5 with extreme numbers.

6 **Q.** And what would you define as extreme numbers?

7 **A.** It's a case by case analysis. I imagine if
8 someone said the African American percentage in a
9 particular district was -- I looked at a district in
10 Washington D.C. once. It was 92 percent African
11 American. I imagine that's a supermajority district,
12 but there is no other way you could have drawn that
13 district. So supermajority, I imagine, yes. I don't
14 have a particular derivative, I don't have a particular
15 number that, okay, 69 is supermajority. I don't have
16 that.

17 **Q.** I understand. Well, thank you very much for your
18 time.

19 **MS. MCKNIGHT:** No further questions, Your
20 Honor.

21 **THE COURT:** All right. Is there any further
22 re-redirect?

23 **MR. SELLS:** No, Your Honor, but Dr. McBride
24 is going to remain in the courtroom and may be called
25 for rebuttal.

1 **THE COURT:** All right. As I understand,
2 that's the rule and it's permitted. You may step down.
3 You may call your next witness.

4 **MR. SELLS:** Your Honor, may I have one minute
5 to see who has arrived since I came in the courtroom?

6 **THE COURT:** Well, somebody better be here.

7 **MR. SELLS:** Yes. We have someone but --

8 **THE COURT:** All right.

9 **MR. SELLS:** Your Honor, plaintiffs calls
10 Michael Coley to the stand.

11 **THE COURT:** Michael Coley. All right.

12 **COURTROOM DEPUTY:** Do you solemnly swear or
13 affirm that the testimony you are about to give in the
14 case now before the Court will be the truth, the whole
15 truth, and nothing but the truth?

16 **THE WITNESS:** Yes, ma'am.

17 **COURTROOM DEPUTY:** Please be seated.

18 **THE COURT:** You may proceed.

19 **MR. SELLS:** Thank you, Your Honor.

20 **MICHAEL COLEY**

21 **Witness, having first been duly sworn, testified on**

22 **DIRECT EXAMINATION**

23 **BY MR. SELLS:**

24 **Q.** Good morning, Mr. Coley.

25 **A.** Good morning.

1 Q. And would you please state your full name for the
2 record?

3 A. Michael Delano Coley.

4 Q. And where do you live, Mr. Coley?

5 A. 105 North Point Circle, Americus, Georgia.

6 THE COURT: We ask that you not give your
7 exact address. If counsel would assist witnesses in
8 not putting sensitive matters -- personal matters on a
9 record that can become public. That's not necessary.

10 MR. SELLS: I'll keep that in mind. Thank
11 you for the reminder.

12 BY MR. SELLS:

13 Q. Mr. Coley, what do you do for a living?

14 A. I'm retired at the time.

15 Q. Mr. Coley, you have previously been a candidate
16 for the at-large seat on the Sumter County Board of
17 Education that is the subject of this litigation,
18 correct?

19 A. Yes.

20 Q. All right. Before we get to your political
21 experience, I want to find out a little more about your
22 background. When and where were you born?

23 A. I was born in Americus, Georgia.

24 Q. In what year?

25 A. 1954, June.

1 Q. Did you grow up in Americus?

2 A. No. My parents and I stayed in Americus a few
3 years and we -- my parents move to Hartford,
4 Connecticut, and I think it was late 50s, and we -- I
5 was raised in Hartford, Connecticut for a few years,
6 and then we moved here in 1965, moved back to Plains,
7 Georgia in '65 after my parents -- my mother passed
8 away.

9 Q. And who do you live with in Plains, Georgia after
10 your mother passed away?

11 A. I was raised by my grandparents.

12 Q. What were their names?

13 A. Mr. Henry Jackson and Rosa Bell Jackson.

14 Q. Where did you go to high school?

15 A. At Plains High School.

16 Q. When did you graduate?

17 A. 1973.

18 Q. Was your high school integrated when you attended?

19 A. Yes. It was integrated when I attended Plains
20 High School, in 19 -- I think it was 1971, they
21 integrated all the schools, and I graduated from Plains
22 High School a couple years later.

23 Q. Well, if they integrated in 1971, when did you
24 start in Plains High School?

25 A. I went to school in Plains High School -- they had

1 -- in 1966 they had a volunteer integration, and my
2 parents and I, we decided that I would be one of the
3 pioneers to go to school at Plains High School in 1966.
4 It was 19 of us that attended Plains High School.

5 Q. Did you have a lot of African American kids in
6 your classes?

7 A. No, I was -- at the seventh grade I was the only
8 African American in my class.

9 Q. What was it like to be the only African American
10 in your class in seventh grade in the late 60s in
11 Plains, Georgia?

12 A. It was tough. It was tough. Every day I went to
13 school -- the first day of school, as a matter of fact,
14 the first day of school my books -- when we went to
15 lunch, my books were torn up and my notebook was torn
16 up outside the classroom. So that was constantly from
17 the day -- day one until my seventh grade ended, it was
18 constantly something going on every day. It wasn't a
19 day that passed by I don't think that I was not called
20 the N word during that time frame.

21 Q. Not a day went by when you weren't called the N
22 word?

23 A. No.

24 Q. So this wasn't just regular bullying, was it?

25 A. No.

1 Q. What did you do after graduating Plains High
2 School?

3 A. I received a two-year scholarship to play
4 basketball at South Georgia Technical College. I went
5 to South Georgia Technical Institute, at the time, and
6 majored in electrical construction maintenance and
7 machine shop.

8 Q. Well, what did you do after that?

9 A. I joined the United States Navy, and I served five
10 years in the United States Navy as a sonar technician.

11 Q. And what's the status of your discharge from the
12 Navy?

13 A. Honorable discharge.

14 Q. Well, thank you for your service.

15 A. Thank you, sir.

16 Q. What did you do you after you got out of the Navy?

17 A. After I got out of the Navy, we moved to Americus,
18 Georgia at that time. It was in 1981, my wife and I
19 and our children, and then I got a job as a deputy
20 sheriff for the Sumter County Sheriff's Department, and
21 a few months later I received a job notification that I
22 -- at Robins Air Force Base.

23 Q. Were you going to school at the time?

24 A. Yes, sir. I attended Georgia Southwestern State
25 -- well, it's Georgia Southwestern College at the time.

1 Q. Did you earn a degree?

2 A. No, I did not. I was in continuing education in
3 computer information, but I later transferred to Macon
4 State College where I earned my associate's degree in
5 business administration, and I earned a bachelor's
6 degree in business information technology.

7 Q. And did you earn those degrees while you were
8 working at Robins Air Force Base?

9 A. Yes, sir.

10 Q. How long did you work at Robins Air Force Base?

11 A. 34 years.

12 Q. Are you married, Mr. Coley?

13 A. Yes, sir.

14 Q. How long?

15 A. I've been married 41 years.

16 Q. What is your wife's name?

17 A. Linda.

18 Q. Where did your wife grow up?

19 A. She grew up in Americus, Georgia.

20 Q. Did she attend Sumter County schools?

21 A. Yes, sir. She attended Americus -- Americus
22 school system and graduated from Americus High School
23 in 1971.

24 Q. Does your wife work outside the home?

25 A. She's retired as well. She's a retired educator.

1 She was a bookkeeper and secretary for the Sumter
2 County School System for over 27 years.

3 Q. Do you and your wife have any children?

4 A. We have three children.

5 Q. How old are they?

6 A. My oldest son, Terrell, he's 45; our middle child,
7 Michael, he is 39; and our daughter, she is 33.

8 Q. Did they go to Sumter County Schools?

9 A. Yes, sir. All graduated from Americus High
10 School.

11 Q. Are they employed?

12 A. Yes, sir. My oldest son he is retired Air Force.
13 He did 22 years in the Air Force, and he is now
14 currently working on Seymour Johnson Air Force base.
15 My middle child, Michael, he is administrator over
16 Randolph Clay school system. My daughter is a fifth
17 grade teacher at the Sumter Intermediate school in the
18 Sumter County School System.

19 Q. You must be very proud.

20 A. Yes, I am.

21 Q. Do you have any siblings?

22 A. Yes, I do. I have a brother, Terrell, he was a
23 lieutenant in the police force in Americus, Georgia. I
24 have three sisters, who are Betty, Connie, and Sandra,
25 and they all live in Americus -- well, Sandra lives in

1 Americus. Betty and Connie live in Plains, and my
2 oldest sister, Noreen, she lives in Detroit.

3 Q. Are you involved in any community organizations?

4 A. No, sir. I'm currently the chairman of the Sumter
5 County Tax Assessors Board in Americus, Georgia, but as
6 far as activities, just in my church.

7 Q. Well, tell us about your church activities.

8 A. I'm a senior pastor at our church in Montezuma,
9 Georgia. I've been a part and affiliated with our
10 church in Americus, Georgia for over 30 years, there
11 again, Holiness Church, Incorporated, and I was
12 associate minister there, and they sent me to Montezuma
13 to pastor that church, and I've been pastor of that
14 church since 1997, so 20 years; we celebrated our 20
15 years there.

16 Q. So you've been pastor of a church in Montezuma for
17 20 years, and before that you were pastor at a church
18 in Sumter County for how many years?

19 A. Associate minister. I've been an associate
20 minister in Americus for -- since 1983 or '86.

21 Q. Approximately how many members in your current
22 congregation?

23 A. Apparently 125 to 150, somewhere along there.

24 Q. And your current congregation is Macon County,
25 Georgia; is that right?

1 A. Yes, sir.

2 Q. Approximately how many members of your current
3 congregation live in Sumter County?

4 A. I would guess somewhere about 10 to 15, maybe
5 20 percent of the congregation attend our church there.

6 Q. And do you retain connections to your former
7 church in Americus?

8 A. Yes, sir.

9 Q. And how many members of that congregation were
10 there?

11 A. Just, I would imagine about 200 members there at
12 our Americus church with my bishop, who is my pastor,
13 Bishop Arthur Fulton.

14 Q. Mr. Coley, what is the racial makeup of your
15 current congregation in Montezuma?

16 A. It's majority African American.

17 Q. What is the racial makeup of your former
18 congregation in Americus, Georgia?

19 A. Majority African American.

20 Q. How many white congregants do you have in either
21 church approximately?

22 A. None. We've had some to attend my church in
23 Montezuma, but no members.

24 Q. How about your church in Americus?

25 A. I don't -- well, I don't know exactly, you know,

1 because I'm not there as often as I was. So they may
2 be attending, but I'm not sure.

3 Q. But when you were there how many white congregants
4 did you have, just approximately?

5 A. I would say probably, maybe two to three, maybe
6 five at some times.

7 Q. You mentioned the tax assessors board, you're the
8 chair?

9 A. Yes, sir.

10 Q. How long have you served as the chair of the tax
11 assessors board?

12 A. This will be ending my first year as the chairman,
13 and I've been on the tax assessors board for two years.

14 Q. Have you served on any other governmental boards?

15 A. Yes. I was appointed on the board of Sumter
16 Regional Hospital, and, I think around the year 2000.
17 I served on that board for ten years until 2011.

18 Q. Did you ever serve as chairman of the hospital
19 board?

20 A. No. No, I did not.

21 Q. Now, that we know a little bit more about your
22 background, I want to turn back to your political
23 experience.

24 A. Yes, sir.

25 Q. When you first run for political office?

1 A. It was into 1995, in 1995, the Americus City Board
2 of Education, I was elected the City Board of Education
3 and then it dissolved, and then I ran for the Sumter
4 County Board of Education, and I won my district in
5 1996, 05-'96 time frame.

6 Q. And how long did you serve on the Sumter Board of
7 Education at that time?

8 A. For -- until 2005. I served until 2005.

9 Q. Why did you decide to run for the Sumter County
10 Board of Education?

11 A. Because I thought I had something to give back to
12 my community. I wanted to serve my community. I've
13 been in public education. I thought public education
14 was crucial to a lot of our children's future. And it
15 had been a blessing to me and my family, and I wanted
16 to give back and be a support to our young people.

17 Q. Do you remember how many times you were reelected
18 to the school board when you were on between '95 and
19 2005?

20 A. I was reelected, I think it was in year 2000, in
21 1999 I ran again, and I won my election in my district,
22 and in 2000 -- I think it was 2000, I think it was
23 because I was four years and then four years. It was
24 two four-year terms.

25 Q. Two four-year terms.

1 A. Uh-huh.

2 Q. So you ran two or three campaigns during in that
3 earlier stint in politics?

4 A. Yes, sir.

5 Q. Now, when you ran those campaigns, were -- was
6 your district majority black?

7 A. Yes, sir, it was.

8 Q. Why did you leave the board in 2005?

9 A. Well, there was a young guy that came to me and
10 said that he thought that he could bring some new
11 ideas, and I didn't want to stand in his way, and, you
12 know, I was doing, him a favor, him saying that he
13 wanted to be a part of school system, and he had some
14 -- young bright ideas, and I didn't want to run against
15 him, and he didn't want to run against me, so I stepped
16 aside.

17 Q. When was your next run for the board?

18 A. It was in 2014, I believe.

19 Q. And what did you run for?

20 A. I ran for the at-large position on the Sumter
21 County Board of Education.

22 Q. Why did you decide to run again?

23 A. There, again, I wanted to see -- give back to my
24 community, my experiences that I had shared and went
25 through as in my military background, working on the

1 board -- direct -- board of directors at my church,
2 board of Sumter County Regional Hospital board, and
3 then being a former Board of Education member, I
4 thought I had something to give back to my community.

5 Q. Well, let me ask you this. What made you think
6 you were qualified to represent an entire county on the
7 school board?

8 A. My experiences, you know, as -- on the Board of
9 Education I served as the chairman of the Board of
10 Education, two terms as a chairman. I served as a vice
11 chair on the Sumter County Board of Education. I was
12 on the technology committee, the personnel committee.
13 So I brought a lot of experience, not only from
14 personal experience, but from experience being on the
15 board, and I thought that that would be a great asset
16 to Sumter County.

17 Q. Were you aware of the racial composition of the
18 electorate in the county when you decided to run?

19 A. I was aware that there was a slight majority white
20 and -- in our community.

21 Q. Were you aware of racial voting patterns in the
22 county when you decided to run?

23 A. No, sir, I was not.

24 Q. Let me ask you this. Did you think you could win
25 the support of white voters in Sumter County?

1 A. I did.

2 Q. Why did you think that?

3 A. Because, I -- you know, I had been very active in
4 my community, and a lot people in our community knew me
5 as a deputy sheriff, as working on the hospital
6 authority, especially during the tornadoes. During our
7 tornadoes, we rebuilt Sumter County hospital, and I had
8 just -- you know, my personality. I just knew a lot of
9 people in Sumter County, and I really felt I had what
10 it took to be a part and represent the Board of
11 Education at that time.

12 Q. How did your qualifications compare to your
13 opponent?

14 A. Looking at my opponent, she was, to me, she had
15 only been in Sumter County, Americus for a couple of
16 years, a few years, and I'd pretty much had been there,
17 you know, 30 some odd years and graduated from Plains
18 High School, and, you know, I thought that, you know, I
19 had more advantage than she did at the time.

20 Q. So tell us about your campaign. What did you do
21 to campaign and earn votes in 2014?

22 A. It was more of a grass root. I went from door to
23 door. I had committees in various communities from
24 Plains, Leslie, to Andersonville, and all over the City
25 of Americus. I had committees working, ground troops

1 who were knocking on doors, putting our signs out. I
2 had radio ads going, as well as newspapers and so.

3 Q. Did you attend campaign forums?

4 A. Yes sir, I did.

5 Q. Did your campaign use phone banking?

6 A. Yes, we did. We called -- we pulled the -- some
7 of the vote registration, voter banks and tried our
8 best to communicate with people through phone calls and
9 told them, you know, to get out and vote, aspect.

10 Q. And what was the result of your 2014 campaign?

11 A. At 2014, I think there was several candidates. I
12 kind of remember that we ended up in a runoff. I had
13 more votes than she did, than my opponent, as a matter
14 of fact, and there was a runoff so -- but after the
15 runoff, I lost the election in the runoff.

16 Q. What did you do to campaign specifically in the
17 runoff?

18 A. Pretty much the same things I did prior to the
19 election, continued door to door and phone calls,
20 signs, you know, radio ads.

21 Q. Do you think you were the choice of African
22 American voters in the 2014 election?

23 MR. BRADEN: I object, Your Honor, I don't
24 see a foundation for this question.

25 MR. SELLS: Your Honor, the foundation is

1 that Mr. Coley is an experienced politician, has been
2 in Sumter County for 34 years, he knows his community
3 and his community knows him.

4 **THE COURT:** Well, I'll allow you to lay a
5 foundation through the witness if you can for that
6 question.

7 **MR. SELLS:** Sure.

8 **BY MR. SELLS:**

9 **Q.** Well, I'm going to ask you, how do you know that
10 you were the African American candidate of choice in
11 that election?

12 **A.** Well, I felt that I was. I had a lot of people
13 that encouraged me at various venues, church, Walmart,
14 you know, to encourage me to run for the school board
15 because they had previously -- they liked the progress
16 the school system made when I was on the school board.

17 **Q.** Do you think you were the choice of the white
18 community in the 2014 election?

19 **A.** Evidently, I don't think so because -- I don't --
20 most of the people I talked to, the whites in our
21 community that knew me, said they would support me in
22 this election.

23 **Q.** Well, how do you know then if white folks that you
24 knew told you they would support you, how do you know
25 that you weren't the white community's favorite

1 candidate in that election?

2 A. I didn't -- I never had that concept in my mind.
3 I never thought that I was not anyone's candidate. I
4 thought that I presented a -- my experiences and
5 everything, I thought that I was a candidate, I thought
6 I would win the election.

7 Q. Now, now that you didn't win that election, to
8 what, if anything, do you attribute your defeat?

9 A. I really can't answer that, you know.

10 Q. Did you look at election returns from your 2014
11 election?

12 A. I looked at the numbers. That's all I looked at.
13 I did not go into detail or demographics and all that
14 stuff. I just looked at, you know, I think I had over
15 25 -- 2700 votes, and she had a little over 3,000 so it
16 was fairly -- I thought fairly close, but she beat me
17 by a few hundred votes, you know.

18 Q. Were there any racial incidents in your 2014
19 campaign?

20 A. No, sir. The only one I can think of, and I don't
21 think it would be racial, but some of my signs during
22 -- down the Lee Street area, every time I put a sign up
23 it would be -- it would mysteriously disappear the next
24 day. So people that would put them in their yards,
25 they would take them away.

1 Q. What is the Lee Street area for those of us who
2 don't know Americus?

3 A. It is like the main street down -- on South Lee
4 Street area. So it's down near the manor, going to
5 Magnolia Manor, in the area down through that way.

6 Q. Is that a predominantly African American
7 neighborhood?

8 A. No, it's a predominantly white neighborhood.

9 Q. Did you run for an at-large seat again in 2016?

10 A. Yes, sir, I did.

11 Q. Why did you decide to run again?

12 A. For punishment, no. There again, I thought that I
13 had an opportunity and saw what it meant to be running
14 for election. Can I back up for a second there? A lot
15 of people during this election didn't understand what
16 it meant to be -- by the at-large position, especially
17 when I campaigned from door to door, they didn't know
18 exactly what it meant by running at-large in Sumter
19 County. So I had to do a lot of explaining about the
20 at-large position. And then the 2016, when I ran, it
21 was same thing, we had -- I think it ran into a
22 situation where the Republican and Democratic tickets,
23 they didn't know I was at-large. So at-large, and I
24 was nonpartisan, that I would be on all the tickets,
25 and a lot of people that decided they wanted to vote

1 Republican, they didn't know that I was on the
2 Republican ticket and the ones that voted Democrat,
3 didn't know I was the Democratic ticket so there was a
4 lot that went on there, too.

5 Q. Well, tell us about your 2016 campaign. What did
6 you do to campaign in that election?

7 A. Pretty much the same thing. Door to door, radio
8 ads, newspaper ads, and consistently communicating with
9 people in the churches. So, it was a lot of work
10 because Sumter County is large.

11 Q. What was the result of your 2016 campaign?

12 A. I lost that election as well.

13 Q. Do you think you were the choice of the African
14 American community in the 2016 election?

15 A. There again, yes. There again, I received a lot
16 of encouragements to run, encouragements to be -- to
17 run for the board because of my past experiences.

18 Q. Do you think you were the choice of the white
19 community in the 2016 election?

20 A. There, again, I can't -- I can't answer. I
21 thought I was because, there again, I thought that I
22 had proven that I was someone that was reputable. I
23 had, you know, raised my family, and I was an advocate
24 of public schools, and so that's why I thought so as
25 well.

1 Q. So what, if anything, do you attribute your defeat
2 in the 2016 election?

3 A. There again, I think what contributed, I think,
4 one, as stated before, one was the fact that a lot of
5 people didn't know that they could vote. I talked to
6 people afterwards, and they said, I didn't know your
7 name was on ballot. It was on the last part of the
8 ballot once they voted for -- I think at the time the
9 sheriff's race was going as a Republican ticket, and
10 then there were several people that wanted to vote on
11 the Democratic ticket because there was a favorite
12 candidate that they wanted, and they said, I didn't
13 know. I said, did you scroll down and see at the end
14 of the ballot that I was on that ballot, and a lot
15 people said, I don't know, so they just voted and
16 didn't even vote for the school board at the time.

17 Q. Were there any racial incidents in your 2016
18 campaign?

19 A. No, sir.

20 Q. How about yard signs?

21 A. Hmm --

22 Q. Do you remember any yard signs being removed in
23 2016?

24 A. There were several. But, you know, there again,
25 it's pretty much about the same, same aspect of what

1 happened in 2014.

2 Q. Well, let me ask you this. Do you think you lost
3 because you didn't campaign hard enough?

4 A. I think I gave it my all. I think -- I had
5 limited resources. I didn't get the donations that I
6 needed as far as I had in 2014, in 2016 because the
7 other races that were going on. And, but I think I
8 campaigned as hard as I possibly could and -- but, you
9 know, I live with the results.

10 Q. Do you think you didn't win because your
11 reputation isn't good in the community?

12 A. No, sir. I have -- I think I have a really good
13 reputation in Sumter County.

14 Q. Mr. Coley, you have run multiple campaigns for a
15 district seat and for an at-large seat on the Board
16 of Education, correct?

17 A. Yes, sir.

18 Q. And you have run multiple campaigns under the
19 current election plan, what we call the House Bill 836
20 plan, with elections held in May and the prior plan
21 with nine single member districts and elections held in
22 November, correct?

23 A. Yes, sir.

24 Q. So let me ask you, how is campaigning for a
25 district seat different from campaigning for an

1 at-large seat?

2 A. Well, the districts are smaller. They had -- and
3 but, the at-large seat was countywide. It's a
4 tremendous amount of effort, time put into running a
5 countywide campaign, and but, the district one is much
6 smaller, less financial burden on the candidate.

7 Q. Which one is more expensive?

8 A. The at-large one.

9 Q. What kinds of things do you need to spend money on
10 in an at-large race that you don't need to spend on in
11 a district race?

12 A. Well, you need more, more of everything, and -- at
13 the countywide elections. In the district, you pretty
14 much can stay and focus on that district, concentrate
15 on those people that's in your district. But as far as
16 the countywide, it's a tremendous amount of work put
17 forth in running a countywide election.

18 Q. How did your opponent campaign in the 2014 and
19 2016 elections? Do you remember anything about her
20 campaign?

21 A. Well, I do remember the electronic board. She was
22 -- she put ads on the electronic board and her signs as
23 well, but I don't know anything else more about her
24 campaign.

25 Q. Mr. Coley, can you explain what an electronic

1 board is?

2 A. Well, there's an electronic advertisement board at
3 -- right, coming into -- I think it's on Forsyth
4 Street, coming into by the CVS, and most of the people
5 that come either into Americus from -- on 280 coming
6 from the Cordele area -- and most of the people coming
7 in from Walmart, Belk's will see that electronic sign.

8 Q. How big is it?

9 A. Just estimating, I'm thinking it's maybe six feet
10 by six, something like that, six foot by six foot.

11 Q. It's a big sign?

12 A. It's a big sign, yes.

13 Q. It's meant to be seen by drivers?

14 A. Yes.

15 Q. And Ms. Roland took out an ad on that sign in her
16 elections?

17 A. Yes.

18 Q. Did you take out a sign on that bulletin board?

19 A. No, I did not.

20 Q. Why not?

21 A. The financial cost.

22 Q. Being it was too expensive?

23 A. Yes, sir.

24 Q. In your experience how does the timing of the
25 election in May versus November affect elections for

1 the Board of Education? I think you spoke a little bit
2 to this earlier.

3 A. From my past experience I think mostly you're
4 going to get more of participation in voter turnout in
5 November than you would in May, and that's historically
6 true. A lot of people go out and vote because there
7 are a lot of things going on during the general
8 elections.

9 Q. Do you know whether African Americans in Sumter
10 County have a depressed socioeconomic status compared
11 to whites in Sumter County in such areas as
12 unemployment, education, income, poverty, those sorts
13 of things?

14 A. Are you asking me do I feel that?

15 Q. Yes.

16 A. Yes, sir, I think so.

17 Q. What makes you think that?

18 A. Well, looking at the -- at some of the, I guess
19 you would say, the jobs that are available, they're not
20 available in Sumter County. We once had a thriving
21 community, but there are a lot of things, a lot of
22 industries like Textron that are closed, you know, and
23 people that live in Americus, the jobs are not there,
24 and they are mostly farm type of things so.

25 Q. How does as that affect elections, specifically

1 African Americans participation in elections in Sumter
2 County in your experience?

3 A. I really don't know how to answer that because,
4 you know, it's -- economically, I mean, people still
5 should have an opportunity to come and get out and
6 vote. So it might affect them, but I'm not sure how it
7 would.

8 Q. Mr. Coley, how long have you been a voter in
9 Sumter County?

10 A. I've been a voter in Sumter County since 1981.

11 Q. And since 1981, as best you can remember, how many
12 African Americans have been elected to a countywide
13 public office in Sumter County over that time?

14 A. I can't -- I can't recall any.

15 Q. Mr. Coley, before I ask you a few concluding
16 questions, is there anything else you think Judge Sands
17 should know as he considers whether the at-large school
18 board seats dilute black voting strength in Sumter
19 County?

20 A. No, sir.

21 Q. All right. Based on your own experience, do you
22 think African Americans voters in Sumter County have a
23 meaningful opportunity to elect their preferred
24 candidates to the at-large seats on the school board?

25 A. Personally, I don't think so. I don't think so.

1 I don't think so because they're in a minority, and it
2 would perhaps -- I don't know -- be able to look at
3 voter history and voter patterns, in looking at it, I
4 don't think they would have an opportunity with that.
5 Now, that I have ran an election twice and saw that
6 this opportunity to do it, I don't see that's going to
7 be possible.

8 Q. Mr. Coley, do Sumter County and the state of
9 Georgia have a history of discrimination against
10 African Americans?

11 A. For my personal answer on that, I think so.

12 Q. And that includes a history of discrimination in
13 voting, right?

14 A. Yes, sir.

15 Q. In fact, you have lived through some of that
16 discrimination in your own lifetime; isn't that right?

17 A. Yes, sir.

18 Q. You mentioned a few moments ago that hardly a day
19 went by when you weren't called the N word by your
20 classmates, I believe you were in the 7th grade?

21 A. Yes, sir.

22 Q. Do any of those classmates still live Sumter
23 County?

24 A. You know, it's amazing you bring that up. I was
25 campaigning in my district several years ago, and I

1 knocked on this door, and one of the guys that was in
2 my classroom, Mr. Hill, and I told him my name, I said,
3 Michael Coley, I'm running for school board in this
4 district in the Plains, Georgia area, and he said, Mike
5 Coley, he said -- he said I'm Terry Hill, he said,
6 you've got my vote because all of the hell I put you
7 through, we put you through, you know, and you still
8 standing and you're running for school board, you got
9 my vote, and so that just made me feel really good.
10 Other people that were in my classroom, I met one guy
11 at the Walmart the other day, and he said, man, I
12 really apologize for what we took you through, he said,
13 come on out to the house some time and let's sit down
14 and eat a burger or something, you know. And so
15 several of them are still living, and they're still
16 living in Plains, and Plains and Americus area, so I
17 run them across them every now and again.

18 **MR. SELLS:** Those are my questions. I'll
19 turn over the witness.

20 **THE COURT:** All right. I think we are near
21 to the time that we would be breaking for the morning,
22 and we'll be in recess for about 20 minutes and we'll
23 resume cross examination. All right.

24 *(RECONVENED; ALL PARTIES PRESENT, 10:27, a.m.)*

25 **THE COURT:** All right. Is it Mr. Raile?

1 **MR. RAILE:** Raile, Your Honor, not phonetic.

2 **THE COURT:** Okay, I wanted to make sure I had
3 it right. Okay, you may proceed with cross
4 examination.

5 **MR. RAILE:** Thank you, Your Honor. Mr.
6 Coley, I'm Richard Raile, and I represent the county in
7 this case, and I don't actually have any questions for
8 you today, but on behalf of the county I would like to
9 say thank you for your military service, for your
10 service to the county, and for your time coming out
11 here today to testify. We thank you.

12 **THE WITNESS:** Thank you, sir.

13 **THE COURT:** All right. I assume there is no
14 redirect?

15 **MR. SELLS:** Nothing to redirect.

16 **THE COURT:** Is there any objection to the
17 witness being excused?

18 **MR. RAILE:** No objection, Your Honor.

19 **MR. SELLS:** None.

20 **THE COURT:** You may leave or remain in you
21 wish.

22 **THE WITNESS:** Thank you, sir.

23 **THE COURT:** You may call your next witness.

24 **MR. MCDONALD:** We call Kelvin Pless, Your
25 Honor.

1 **THE COURT:** All right. If you come forward
2 and be sworn in.

3 **COURTROOM DEPUTY:** Do you solemnly swear or
4 affirm that the testimony you are about to give in the
5 case now before the Court will be the truth, the whole
6 truth, and nothing but the truth?

7 **THE WITNESS:** Yes, I do.

8 **THE COURT:** All right. Mr. McDonald, you may
9 proceed.

10 **MR. MCDONALD:** Thank you, Your Honor.

11 **KELVIN PLESS**

12 **Witness, having first been duly sworn, testified on**

13 **DIRECT EXAMINATION**

14 **BY MR. MCDONALD:**

15 **Q.** Would you please state your name for the record?

16 **A.** I'm Kelvin W. Pless.

17 **Q.** And what's your age, Mr. Pless?

18 **A.** I am 51, 52 tomorrow.

19 **Q.** And what is your race, please?

20 **A.** African American.

21 **Q.** And where do you currently reside?

22 **A.** Americus, Georgia.

23 **Q.** How long have you lived in Americus?

24 **A.** All my life.

25 **Q.** And you were born there?

1 A. I was born there, and the only time I wasn't there
2 was the time during my education, college education
3 time.

4 Q. Well, did you attend public schools in Sumter
5 County?

6 A. I did. Americus High School.

7 Q. And did you graduate from the public schools
8 there?

9 A. I did.

10 Q. And what year did you graduate?

11 A. 1984.

12 Q. And were the schools racially segregated during
13 any of the time that you attended schools in Sumter
14 County?

15 A. During the time, I was in the city school system
16 during that time, and we was integrated at that time.

17 Q. So when you first entered the public schools, they
18 were integrated?

19 A. Yes, it was.

20 Q. Now, growing up in Sumter County do you have
21 significant contact with whites?

22 A. Yes, through school mainly. That's pretty much
23 it, you know, community.

24 Q. Well, what neighborhood did you live in the Sumter
25 County?

1 A. The neighborhood I lived in was predominantly
2 black. I lived on the north side of Americus.

3 Q. And predominantly black, you say?

4 A. Yes, predominantly black.

5 Q. Well, did you experience any racial incidents when
6 you were growing up in Sumter County?

7 A. The most I experienced, was, you know, some light
8 incidents maybe in high school, and more so when I was
9 on the school board.

10 Q. Well, tell me, what were the incidents when you
11 were in the public schools?

12 A. Well, just a few friends and myself were hanging
13 out one day after a basketball game or before, rather,
14 and there were a few white guys hanging out also, and
15 one of my friends accidentally brushed his pickup truck,
16 and he wanted to start a fight over it. So it went on
17 from there. Of course, we stood up for our side, and
18 they did theirs also.

19 Q. Well, when you say our side, what do you mean by
20 that?

21 A. Okay, be more specific. Like I say, the white
22 guys got upset because my friend accidentally brushed up
23 against his pickup truck, and, you know, he got sort of
24 hostile about it. So that happened, and it started an
25 altercation, we begin to fight about it because we're

1 standing up for our black friend, and the other guys
2 stood up for their white friend.

3 Q. Well, did you find that when you were in the
4 public schools that whites and blacks tended to be
5 separate or together or what?

6 A. For the most part unless there's was a particular
7 event, we hung with our group. The African Americans
8 hung with their group, and the whites hung with theirs,
9 unless, you know, we played in the band or football,
10 you know, some significant event. Otherwise, everybody
11 pretty much hung within their own race.

12 Q. Now, are you currently employed?

13 A. I am, yes.

14 Q. And what work do you do?

15 A. I work for the Georgia Department of Juvenile
16 Justice in the education department.

17 Q. And how long have you been there?

18 A. Seven years.

19 Q. And were you employed prior to that?

20 A. I was.

21 Q. And what did you do?

22 A. Prior? Prior to that?

23 Q. Yes.

24 A. I worked at Nobort (*phonetic*) International Paper,
25 and I was a technical coordinator.

1 Q. How would you describe the neighborhood in which
2 you currently live in Sumter County?

3 A. Well, the neighborhood I live in now, still the
4 same, it's predominantly black. I do have some
5 Hispanic neighbors now. It's not very many people on
6 my street, but it's predominantly black.

7 Q. Well, do you have significant contact with whites
8 today in Sumter County?

9 A. Not a whole lot. Other than maybe if there's a
10 particular event going on.

11 Q. Well, how can you explain that, or can you?

12 A. Well, hmm, like I say, pretty much, you know, my
13 church is predominantly black. Most of the places I
14 am, pretty much African American. I work at the local
15 radio station, of course, there's whites there. We do
16 fine. Or if I'm invited to a certain event, I'm around
17 whites. On my job it's pretty much predominantly
18 blacks in my department, so that's the most contact I
19 have with the opposite race.

20 Q. Are you a member of any civic organizations in
21 Sumter County?

22 A. Yes, I am.

23 Q. What are those organizations?

24 A. I'm not active now, but the Masonic Lodge.

25 Q. Well, are there --

1 A. It's --

2 Q. Is it racially integrated?

3 A. Yes -- it's predominantly -- it's black. All
4 black. African American.

5 Q. Is that only organization that you belong to?

6 A. For right now, other than my church. It's
7 black -- African American.

8 Q. Does it have any white members at all?

9 A. Not that I've seen, no.

10 Q. Well, how can account for the fact that churches
11 are segregated today?

12 A. How can I account for it?

13 Q. Yes.

14 A. I've heard that Sunday is the most segregated day
15 of the week. African Americans pretty much worship
16 together, and the white community worships together,
17 and the Hispanic community worships together
18 separately.

19 Q. And do you know why that's the case?

20 A. I guess that's just their preference in doing.

21 Q. Now, have you run for public office in Sumter
22 County?

23 A. Yes, I have.

24 Q. And tell me when you ran.

25 A. I ran for school board district in 2010. I won

1 that election, and then I ran again, I believe it was
2 2014 in the at-large election. I lost that election.
3 And just recently I ran for Americus City Council,
4 which is just a district election. I won that one.

5 Q. Well, let me ask you about the 2010 election for
6 the school board. What was the district that you ran
7 in?

8 A. District three.

9 Q. How did you conduct your campaign?

10 A. I did door to door campaigning mainly. You know,
11 just face to face campaigning to the people.

12 Q. Well, did you think you qualified to hold public
13 office?

14 A. Yes, sir.

15 Q. And tell me why.

16 A. Well, for the most part I have a connection with
17 people, engagement with the people, and the people
18 pretty much were the ones that requested me to do such,
19 and the support of the people were there, whether it
20 was financially, assisting in campaigning. And my
21 education level, I understanding -- well, at that time
22 the school system was my interest. I have a degree in
23 education also, so that helped out.

24 Q. Well, were there any racial incidents in your
25 campaign in 2010?

1 A. I would believe so. Are you referring to just the
2 campaign?

3 Q. Yes.

4 A. Yes.

5 Q. What were they?

6 A. You know, when you're out campaigning there are
7 people that will turn you off based on your race. You
8 know, I didn't limit myself to just African American
9 votes. I had some white constituents also, and you
10 could very well tell that they didn't want to be
11 bothered with me based on race, you know, and they made
12 that clear.

13 Q. Well, what impact did that have on you personally
14 and on your campaign?

15 A. As far as on me, it was disappointing in this day
16 and time that you would still have that type of thing
17 still going on, but it didn't stop my effort in terms
18 of campaigning because I wanted to represent the
19 school.

20 Q. Now, you said you ran again in 2010; is that
21 correct?

22 A. Well, I think that was the initial one. I ran for
23 reelection in 2014 or '13, however. I was getting
24 ready to do my second round for the school board.

25 Q. I'm sorry, the question that I wanted to ask you,

1 when you ran in 2010, was that under the nine single
2 member district system?

3 A. No. It was a single member district at that time.

4 Q. Nine?

5 A. Nine. Yes, sir, I'm sorry, I misunderstood you.

6 Q. How much African Americans served on the board at
7 that time?

8 A. It was five.

9 Q. Was the election contested?

10 A. Yes, it was.

11 Q. Who contested you?

12 A. It was Donna Minich.

13 Q. But you won the election?

14 A. I did win the election.

15 Q. And was it contested by her after the election was
16 over?

17 A. Yes. She did. After the election she filed a
18 lawsuit against me contesting or saying that I did some
19 illegal things with the absentee ballots.

20 Q. And what was her race?

21 A. She's white.

22 Q. What was the outcome of that contest?

23 A. I did win the election. I'm not sure on the
24 specific numbers, but I won by a pretty large margin.

25 Q. Well, I mean, the contest that she filed

1 challenging the election, what was the outcome of that?

2 A. My attorney, I hired attorney Maurice King at the
3 time, he was African American, and he responded to her
4 charge, and it was immediately -- she dropped the case
5 or discontinued her effort.

6 Q. Is that Maurice L. King?

7 A. Maurice, Maurice L. King, Jr., yes.

8 Q. Did the school ever hire him as its attorney?

9 A. Yes, the school did.

10 Q. What were the circumstances under which he was
11 hired?

12 A. Well, of course, I nominated him at the time, and
13 we had two previous law firms, Skipper, and then we had
14 the law firm out of Atlanta, Hartley Harden at the
15 time. So just for economic reasons we came up with
16 Mr. King, Maurice King, that is, and we hired him, and
17 the circumstances of that was -- created some outrage
18 from the white community.

19 Q. Well, explain what you mean by created outrage.

20 A. Well, obviously -- well, if I have to stand onto
21 what happened with the lawsuit, I guess the lost by Ms.
22 Minich, she was still sort of bitter about it, so she
23 sort of kept a group of the white community upset about
24 it. So that was just one portion of where she still
25 stimulated some hostility through the white community

1 to, they hired this African American attorney, and we
2 don't think he's qualified and a lot of other
3 derogatory statements that was made about him.

4 Q. Well, did he stay on as the attorney for the
5 school board?

6 A. Yes, he did.

7 Q. Well, did you experience any racial incidents when
8 you served on the school board?

9 A. Oh, yes.

10 Q. Tell me what they were, please.

11 A. Quite a bit, actually. We -- it was like a lynch
12 mob from the white community where we would probably
13 have sometime maybe ten people at board member --
14 meeting, I should say, probably end up being almost a
15 hundred people there, mainly whites, and, you may have
16 a few African American that just attend on a regular
17 basis, and there was a lot tension and hostility drawn
18 toward us. We were labeled by even the local media as
19 the Gang of Six. A lot of negative things were said by
20 the local media. Even here in Albany, they used the
21 Albany media, WALB, to use things to make it seem that
22 we were a bad board when actually we hadn't even had a
23 chance to execute any plans. They had town hall
24 meetings, and it was, you know, they were pretty
25 aggressive. You know, they said negative things, a lot

1 of nasty things about us, even to the point of writing
2 employers letters saying negative things that weren't
3 true actually. At the time I was hired by South
4 Georgia Tech, my boss or supervisor was sent a letter
5 saying I had attacked some child even. Of course,
6 nothing came out of it. I was never questioned by the
7 institution or anything of nature, but that just how
8 in-depth they were to -- how mean they were towards us.

9 Q. So who was the Gang of Six?

10 A. The Gang of Six was the African American school
11 board members at the time.

12 Q. And that included you?

13 A. That included me, yes.

14 Q. Well, how did you feel about being described as a
15 member of the gang of six?

16 A. Well, I have never been a part of a gang. I
17 just -- it was insulting that I would be referred to as
18 a gang member. I worked with gang members every day in
19 my facility where I work, and I know what gangs are,
20 and there is no part of me that's a gang member, and,
21 like I said, you know, I can speak for the rest of the
22 board members at the time, they weren't either.

23 Q. Well, what about the attitude of the board members
24 towards the children in the schools, how would you
25 describe that?

1 A. Well, the board members' attitude toward the
2 children of the school, we were there mainly for
3 student achievement. Unfortunately, we spent so much
4 time fighting against these nitpicking racial attitudes
5 that we weren't as successful as we wanted to be, but
6 we accomplished quite a bit. We did see, before my
7 term was up, we saw scores rise up in the student
8 achievement, the EOC scores, and, of course, scores
9 rise up. Our interest towards the children was just
10 that, our love for them and making sure they can get an
11 education. Unfortunately, the motives of others was
12 different. Even to the point I didn't mention of, they
13 even called SACS and tried to kill the accreditation of
14 the children. That was hurtful also.

15 Q. Who tried to?

16 A. Particularly that charge was led by the previous
17 board chair at the time, Dr. Michael Busman, Meta
18 Krenson, and some more in the community that attacked
19 us -- they used SACS as a way of leveraging against us.

20 Q. Well, what was the race of those individuals?

21 A. African -- white.

22 Q. Well, do you think they were motivated by some
23 racist attitude or what?

24 A. Yes, they were.

25 Q. Well, explain what you mean by that.

1 A. Well, that's when they went after -- they didn't
2 go after the African Americans to come and say that the
3 school was bad, they pretty much went into the white
4 community and encouraged them. Even the local radio
5 station announcing, hey, we want you to be at the
6 school board meeting tonight. I mean, if I could use
7 the word, they had the whole white community energized
8 or hyped up, should I say, to go after us, and every
9 board meeting it felt like we was part of, you know,
10 was being lynched based on the way we was treated. I
11 didn't even feel comfortable walking out after a board
12 meeting because you didn't know what was going to
13 happen. But, like I say, those white members didn't
14 reach out to any African Americans to be there. If
15 that was the case, you know, maybe you could say it
16 wasn't racial, but they sought the white community to
17 fight against the majority black school board at the
18 time.

19 Q. Well, do you know whether or not any letters were
20 ever sent to the employers of African American board
21 members making complaints against them?

22 A. Yes. As I mentioned earlier, I had -- and I
23 received a copy of it myself, a letter that was sent to
24 my -- the president of the -- of South Georgia Tech
25 saying, you know, like I say, making allegations that I

1 attacked some child or just anything they could to get
2 us fired off of our jobs.

3 Q. Well, were there any laws passed by the state
4 legislature that had an impact on the new school board?

5 A. Yes. At the time I think the previous board --
6 the former board chair at that time, Dr. Michael Busman
7 had a relationship with Mike Cheokas that worked in the
8 state office, state representative. And they came up
9 with this thing about our travel expense. And, of
10 course, you know, travel expense include, you know, a
11 number of the things, the hotel expense, the cost of
12 the workshops that you are required to attend, and they
13 even went so far to have Mr. Cheokas go up there and
14 legislate a budget specifically for Sumter County Board
15 of Education, really an unfair amount, I think like
16 \$2400 a year, if I remember correctly, and, of course,
17 you know the cost of travel expense, that wouldn't
18 cover the entire year that was based on requirements of
19 us being there.

20 Q. Well, you may have mentioned this, but I just
21 wanted to ask you, did the white board members ever
22 attempt to have the school's accreditation removed?

23 A. They did.

24 Q. Explain what they attempted to do.

25 A. Again, they called up the SACS representatives,

1 and we went through this long process of them saying we
2 was an unfit school board. Former chairman Michael
3 Busman even went on the -- got in the news media and
4 said he hoped that they remove all of us. They also
5 sent letters to the Governor Nathan Deal at the time,
6 well, still Nathan Deal, but requesting him to have us
7 removed also. We ended up going to court before the
8 State Board of Education also, hearings up in Atlanta
9 in a case to have us removed, and all of this was
10 motivated by the white school board members.

11 Q. When you say have us removed, to whom are you
12 referring to?

13 A. African American, the six African American board
14 members. I guess, to make it look politically correct.
15 He wanted us all of us of removed, but it was mainly
16 aimed at the African American board members.

17 Q. Now, the school board, are you aware of the fact
18 that it was redistricted in 2014 under House Bill 836?

19 A. Yes, it was.

20 Q. Well, do you have any views as that to why that
21 bill was enacted?

22 A. Pretty much for the -- to the African Americans
23 not to have as much control over the school board. It
24 was watered down to -- of course, we went from a nine
25 district to, I think, a seven district, two at-large

1 and five single districts, and that would give the
2 white board members the upper hand over the school
3 board, which they have now.

4 **MR. BRADEN:** Your Honor, I've been sitting
5 patiently hearing a series of questions that I believe
6 are irrelevant to this Court's decision. The issue
7 before this Court is the effect of the plan and the
8 ability of the African community to elect its
9 candidates of choice. Obviously these questions have
10 nothing to do with the question of whether or not the
11 African American community has an equal opportunity to
12 elect candidates in the county.

13 **MR. MCDONALD:** Well, Your Honor, it goes also
14 to the question of purpose behind the adoption of the
15 plan. I mean, we know purpose or effect are two of the
16 things that one takes into account in determining
17 whether or not a challenged practice violates Section
18 2. This is plainly irrelevant.

19 **THE COURT:** Well, the Court does not find
20 that it's totally irrelevant. So I think the objection
21 goes more to the weight, if any, that the evidence
22 might have, so the Court overrules and allows you to
23 continue.

24 **BY MR. MCDONALD:**

25 **Q.** So, again, can you tell me what you base your view

1 that there was a discriminatory purpose underlying
2 House Bill 836?

3 A. Yes. As I mentioned earlier I think the whole
4 idea was to give control back to the white board
5 members.

6 Q. Well, did that House Bill 836 have any impact on
7 the district from which you were elected?

8 A. Yes, it did.

9 Q. What was the impact?

10 A. The impact was, was I was in district three which
11 turned into what I believe what is district two,
12 however it was, it ended up being a predominantly white
13 district all the sudden. So with that, I had to make a
14 choice between whether I was going to run district or
15 at-large, which was both pretty risky, and well, didn't
16 leave too much of a choice. It was a slim chance I
17 could possibly get reelected again.

18 Q. So what decision did you make?

19 A. I decided to take my chance at running at-large.

20 Q. And was it more difficult for you to run at-large
21 than from a single member district?

22 A. Yes, it was.

23 Q. Explain why.

24 A. Well, for one, the demographic is a lot more
25 territory to cover and more expensive, and you still,

1 like I said, dealing with a lot more territory to cover
2 as far as the, you know, the campaigning efforts and
3 the financial efforts in terms of buying political
4 signs and political materials as well.

5 Q. Well, did you win or lose that at-large race in
6 2014?

7 A. Yes, I lost that race.

8 Q. Who did defeated you?

9 A. Dr. Michael Busman.

10 Q. And what's his race?

11 A. He's white.

12 Q. So when did your term on the school board expire?

13 A. It expired at the end of my term in 2014.

14 Q. How would you describe the campaign that you
15 conducted in your at-large election?

16 A. It was painstaking. I mean, it was, like I said,
17 it was a lot of grounds, a lot of strategies that had
18 to come in mind, because of the style campaign that I
19 did, I like to make direct contact with my
20 constituents, so that really, versus a district, you
21 know, that means I was going to more rural areas of
22 campaigning, and, of course, a countywide election is a
23 lot more grounds to cover than just a district.

24 Q. Were there any racial incidents in that at-large
25 campaign?

1 A. I can't recall any right off the bat, not during
2 the campaign.

3 Q. Well, did you any problems with removal of signs,
4 for example?

5 A. Signs were moved. I just can't pin it on any
6 particular person of what happened with it, you know.
7 That's some of the things that occur when you put out
8 yard signs, but some were removed, yes.

9 Q. Well, based on your experience running for
10 political office, do you think that voting is racially
11 polarized in Sumter County?

12 A. Yes. Whites tend to vote white, blacks tend to
13 vote black.

14 Q. What do you base that view on?

15 A. Well, the election results. And, you know, you go
16 back and look at reports. Of course, you don't know
17 who voted for you, but for the most part it's seemingly
18 just as the way the community, Sumter County community,
19 even socialize or deal each other is separated by race
20 anyway.

21 Q. Well, do you think you were the preferred
22 candidate of African American voters?

23 A. Yes, sir.

24 Q. And do you base that on what you previously said?

25 A. Right.

1 Q. Okay. And do you think African American voters
2 have a meaningful chance of electing their preferred
3 candidates to at-large seats on the school board?

4 A. African Americans?

5 Q. Yes.

6 A. It's more an advantage when do you it by single
7 district.

8 Q. Well, do you think that they do have an equal
9 opportunity to elect candidates of choice to the
10 at-large seats?

11 A. No.

12 Q. And why do you base your view on that?

13 A. The records show African Americans don't win in
14 at-large elections in Sumter County.

15 MR. MCDONALD: Well, your Honor, that's all
16 the question I have for Mr. Pless.

17 THE COURT: Okay. Mr. Braden, cross
18 examination?

19 CROSS EXAMINATION

20 BY MR. BRADEN:

21 Q. Good morning.

22 A. Good morning.

23 Q. Do you know whether an African American is the
24 clerk of the superior court in Sumter County?

25 A. Yes.

1 Q. And she was elected countywide?

2 A. Yes.

3 MR. BRADEN: Thank you, Your Honor. No
4 further questions.

5 MR. MCDONALD: Redirect, Your Honor?

6 THE COURT: Yes.

7 REDIRECT EXAMINATION

8 BY MR. MCDONALD:

9 Q. Well, the office -- and the question that you
10 previously got, will you tell me whether or not that
11 was a primary election or a countywide election?

12 A. I think it was a primary election, Democratic,
13 Republican. I'm not very sure on that.

14 Q. Well, is the Democratic party majority black?

15 A. Yes.

16 Q. And you think that election was held in the
17 Democratic primary?

18 A. It was.

19 Q. And was there a general election after the
20 primary?

21 A. She didn't have to run for a general election, I
22 don't think.

23 Q. Okay. Thank you very much.

24 A. Okay.

25 MR. MCDONALD: That's all the questions I

1 have.

2 **THE COURT:** All right. Any there further
3 recross, Mr. Braden?

4 **RECROSS EXAMINATION**

5 **BY MR. BRADEN:**

6 **Q.** So it's your testimony that her name did not
7 appear on the ballot in the general election?

8 **A.** I'm not sure, sir, about the -- you said her name
9 appeared? Yes, it appeared on there uncontested.

10 **Q.** Do you know whether Sanford -- that's enough.
11 Thank you.

12 **THE COURT:** All right. Anything further?

13 **MR. MCDONALD:** Nothing further from me, Your
14 Honor.

15 **THE COURT:** All right. Any there reason this
16 witness cannot be excuse from either side?

17 **MR. MCDONALD:** I'm sorry?

18 **THE COURT:** Any reason the witness can not be
19 excused.

20 **MR. MCDONALD:** None for us, Your Honor.

21 **MR. BRADEN:** None for us.

22 **THE COURT:** All right, sir. You are excused.
23 You may leave if you wish, or remain if you wish, it's
24 up to you.

25 **THE WITNESS:** Thank you.

1 **THE COURT:** All right. You may call your
2 next witness.

3 **MR. MCDONALD:** We're calling Mr. Mahone, Your
4 Honor.

5 **THE COURT:** If you will come right here and
6 be sworn and then take a seat in the witness box.

7 **COURTROOM DEPUTY:** Do you solemnly swear or
8 affirm that the testimony you are about to give in the
9 case now before the Court will be the truth, the whole
10 truth, and nothing but the truth?

11 **THE WITNESS:** I do.

12 **THE COURT:** You may begin. You might want to
13 pull that mic down a just little bit. All right. You
14 may proceed.

15 **MICHAEL MAHONE**

16 **Witness, having first been duly sworn, testified on**

17 **DIRECT EXAMINATION**

18 **BY MR. MCDONALD:**

19 **Q.** Will you please state your name for the record?

20 **A.** Sam Mahone.

21 **Q.** And where do you currently reside, Mr. Mahone?

22 **A.** I reside at 690 Timber Road, Atlanta, Georgia.

23 **Q.** And tell us what your race is, please?

24 **A.** African American.

25 **Q.** And where were you born and where did you grow up?

1 A. I was born and raised in Americus, Georgia.

2 Q. And how long did you live there?

3 A. Hmm, I went through the school system, graduated
4 high school. I stayed in Americus until I was roughly
5 about 18 years of age.

6 Q. And where did you attend school?

7 A. I went to Eastview -- well, first of all, McCoy
8 Hill Elementary. I went from there to Eastview
9 Elementary, and from there to Stately Junior High, and
10 I graduated from Sumter County High in 1964.

11 Q. And were the schools at that time racially
12 segregated?

13 A. Yes, they were.

14 Q. And what was that like for you growing up?

15 A. As a child we knew that there were -- schools were
16 not equal. We -- the books that we received had been
17 passed down, and so it -- as we got older, we
18 recognized that we were not getting the latest
19 information in terms of the books that we were given to
20 study. So, as you got older, as you progressed as an
21 individual, you noticed the inequities in the system
22 itself. It wasn't as noticeable as a young child, but
23 as you got older, you recognized it was stark
24 differences in what you received as an education.

25 Q. Well, what about the communities in which you grew

1 up, was it integrated or segregated or what?

2 A. Neighborhoods were totally segregated. Stark
3 differences in terms of the community itself. We had
4 red dirt roads, the roads were not paved, no sidewalks.
5 I didn't experience an indoor toilet until I was -- had
6 graduated high school. We had outdoor toilets during
7 my whole adolescent years. We didn't get an outdoor
8 toilet until after I graduated high school. Totally
9 segregated, the schools, businesses, hmm, just no
10 really communication at all in terms of black and white
11 communities. And that was reenforced by your parents
12 who had gone through the same inequities, and so they
13 kind of had to sort of prepare you in terms of how you
14 were to respond if you were approached by someone --
15 well, a white person and what have you.

16 Q. So how were you to respond?

17 A. You had to defer, because they wanted to protect
18 you. Your parents wanted to protect you, and they knew
19 what they had gone through and what they had
20 experienced, and so they prepared you to sort of bite
21 your tongue if someone said something negative to you,
22 or if someone treated you -- if someone physically
23 mishandled you, and you learned as you looked at your
24 parents, just subtle things that you noticed in your
25 parents that you saw -- for instance, my father, when I

1 would notice him conversing with a white person how he
2 would never look that person in the eye. He always
3 looked down as if he looked them in the eye, that was
4 immediately seen as a confrontation, a confrontation
5 with them. And so walking down the streets downtown,
6 deferring to white people as you walk down the
7 sidewalk, you moved aside, and you stepped off the curb
8 and what have you, things like that.

9 Q. Well, did you have to do that when you were
10 growing up?

11 A. Yes. It was something that your parents, you had
12 seen them do, and so it was kind of ingrained and
13 instilled in you that you always had to defer to that.
14 There had been too many instances of people who had not
15 done that and who were either beaten or jailed or
16 something of that nature. That's just how stark it was
17 at that time.

18 Q. Well, any specific incidents that happened to you,
19 racial incidents that you would like to discuss?

20 A. Yes. I recall my brother, my older brother who
21 was in the Navy, he was on his second term. During
22 that time -- my mother was a domestic worker, she
23 worked in white people's homes, she kept and fed their
24 children. My father was a laborer who worked at what
25 was called then a basket factor, manufacturing baskets.

1 During that time there was what we called a policy man
2 insurance agent who would to your house and collect the
3 policy, the money for your policies, and on this one
4 occasion my brother was -- who had traveled all over
5 the world and he was home on leave, and I was about in
6 tenth grade, I believe, and we were sitting on the
7 front porch, and the policy man drives up, and he walks
8 up the steps, he never bothers to knock, but he walks
9 past us and he walks into our house without saying who
10 he was or speaking or anything. So my brother -- to
11 me, it was kind of normal because that's what they
12 always did, but my brother who had traveled the world,
13 and had, you know, had sort of, you know, he'd been out
14 there and he'd experienced other things, you know. My
15 brother got up and confronted him and said, you know,
16 why are you walking through our house, you didn't even
17 speak, you didn't knock, we don't know who you were.
18 So the policy man was offended simply by him asking the
19 questions. And so there was a confrontation, and my
20 brother literally threw him off the porch, and we took
21 him, and we both grabbed and took him to his car
22 because when my brother did that, that kind of embolden
23 me, and so we put him in his car, and so he drove off.
24 My mother and father, they were just afraid. So they
25 -- my mother packed a lunch for us, said we had to get

1 out of town. I had an uncle who lived in Atlanta, so
2 she packed a lunch, and we drove and we went to
3 Atlanta. The thing about is that we didn't hear
4 anything more about it. We thought that -- I stayed in
5 Atlanta for about a week, and my brother went on back
6 to whatever he was stationed, but we never got any
7 reports from the police or -- that was it. And so,
8 there were other incidents also when I became involved
9 in the Civil Rights Movement.

10 Q. When did you become involved in the Civil Rights
11 Movement?

12 A. When I was a junior in high school, there was what
13 was called the Americus Business League, which
14 consisted of several local black businessmen, civic
15 leaders who decided that they wanted to start a voter
16 registration, voter education -- voter registration
17 drive and voter education drive, so as a young kid, I
18 began to -- the organization was run by a man named Sam
19 Weston who was a local tailor on Cotton Avenue. He
20 also ran a soda shop where teenagers would hang out
21 after school. And he was also the first black to run
22 for public office in Americus. So he would encourage
23 us kids to become involved. We would go back by his
24 shop in the afternoon after school and we would
25 literally canvass the neighborhoods door to door, going

1 door to door, seeing if people, African Americans were
2 registered to vote. If they wadn't, we'd take their
3 names down. We would arrange for them to be picked up,
4 if they didn't have transportation to the courthouse to
5 register. And that was my first involvement. In 1961
6 Martin Luther King was brought to Americus from Albany
7 and was jailed in the Sumter County jail. He had been
8 arrested in Albany, and they said they brought him to
9 Americus for safekeeping, and he was placed in the
10 Sumter County jail. That was when the student
11 nonviolent coordinating committee, which had been
12 operating in Albany and Southwest Georgia came to
13 Americus under the leadership of Charles Sherrod,
14 Shirley Sherrod. So, that first venture into that
15 political activism sort of pushed me toward that group.
16 They came into Sumter County to start a voter
17 registration drive, and, again, after school, I would
18 go to what we called the SNIK office. SNIK was Student
19 Nonviolent Coordinating Committee. And we would
20 literally canvass neighborhoods door to door, taking
21 people down to register. There were occasions when I
22 would -- we had this old Volkswagon bus that we would
23 line people up and arrange to take to the courthouse to
24 register. And when I took some people down, there
25 would normally be about 12 to 15 people, and we would

1 stand in the hallway to wait to see if they could
2 register. A couple of occasions I was attacked from
3 behind by a gentleman, who was -- his name was J.W.
4 Southwell. He was the justice of the peace, and he had
5 an office in the courthouse there, and he would be the
6 main antagonist who would attack people from behind,
7 hit them and beat them. And one day he attacked me as
8 I was standing in line with people, and --

9 Q. Well, what --

10 A. -- we were taught to --

11 Q. What year was that?

12 A. This was 1963.

13 Q. Okay.

14 A. And we were taught when we were attacked to curl
15 up in a fetal position on the floor to protect our
16 heads and our bodies from being kicked and what have
17 you. We always expected something like that to happen,
18 so we prepared for it. We would actually have these
19 classes where we would teach people how to defend
20 themselves, nonviolently by not fighting back because
21 we knew if we did, then we wouldn't live for the next
22 day.

23 Q. Well, were you able to hold meetings, voter
24 registration meetings, for example, in local black
25 churches?

1 A. We did initially. We couldn't inside the city of
2 Americus because the local black pastors were afraid.
3 And during that time there were a number of church
4 bombings throughout Southwest Georgia and so pastors
5 were afraid to let us use their churches. So the first
6 churches we actually used were out in the country, out
7 in the county. One was called New Pineville Baptist
8 Church, one was called New Corinth Baptist Church. We
9 would load school buses, old school buses in the
10 evenings and ride those buses, a 15, 20-minute drive
11 out in the country and we would have meetings there.
12 It wasn't until about a year later that the churches,
13 one by one in Americus began to open up and let us,
14 allow meetings inside the City of Americus.

15 Q. Well, when you joined SNIK, did you work in other
16 counties?

17 A. I did. I began in Americus, but we would always
18 call in other counties if there was, for instance, if
19 there was an election held where the first black
20 decided to run for office, and we would send people to
21 other counties to work on those drives and to get
22 people registered and to take them to down to vote as
23 well. Places like Terrell County, Dawson, Lee County,
24 and Dougherty County as well.

25 Q. Well do you know who was the first black to run

1 for political office in Sumter County?

2 A. That would be Sam Weston who -- yeah.

3 Q. And what year was that?

4 A. That was 1962.

5 Q. What office did he run for?

6 A. I think it was justice of the peace, I believe.

7 I'm not sure. I think that's what it was though.

8 Q. Well, did he win or lose?

9 A. He lost the election, yes.

10 Q. Did you ever attempt when you were living in
11 Sumter County to desegregate any places of public
12 accommodation in Americus?

13 A. Yes, I did. I was part of the first group of 11
14 who decided to try -- once we began the voter
15 registration drives, we began to -- as students, you,
16 know, we couldn't go to any places. The most visible
17 and places of segregation was, to us was a movie
18 theater. It was called the Martin Theater. You could
19 go to the theater, but you had to go down to a separate
20 ticket window in the back, go down this long dark alley
21 and then walk up three flights of stairs and sit in the
22 balcony. And so that was chosen as a target by
23 students, not the leaders of the -- not the civil
24 rights leaders, but the students actually decided that
25 we wanted to see if we go into that theater. So one

1 night 11 of us stood at the front window, the ticket
2 window, and we stood there, and they wouldn't wait on
3 us, and so they called the police. The police came and
4 arrested us for disorderly conduct and failure to obey
5 an officer. They put us in jail, took us to court the
6 next Monday -- the next morning, and they sentenced us
7 all to 90 days probation, and as kids we didn't realize
8 what probation really meant. The next week, four of us
9 who had originally -- 11 were arrested again for the
10 same -- at the same theater, and they took us to court
11 the next morning and they said we'd have to serve those
12 90 days sentences in the city prison. So, of course,
13 as kids we didn't -- just knew we were going to get out
14 of jail. They're not going to put us in jail for 90
15 days, you know. But they did. They sent us to city
16 prison. They put us in prison garb, and the next day
17 they took us out to work. There were two, myself and
18 another guy, and two women, two girls. That first day
19 we went out, we decided we're not going to work, and so
20 we just -- we just sat down. They took us and put the
21 two guys in what was called the hold at county jail.
22 The hold was a six by six concrete bunker that had a
23 small opening at the bottom of the door where they
24 would put a cup of water and some bread each day for
25 you to -- well, we decided we were going to fast. The

1 other gentleman's name was Bobby Lee Mathis -- Bobby
2 Lee Jones, who still lives in Americus. There were two
3 women, Lena Turner and Loren -- Lorene Sanders, they
4 were going to put the women on the street also, but the
5 ministers, the black ministers got together and
6 demanded, which was quite bold at that time, that they
7 don't put those women on the street, working and
8 digging ditches and things like that. So the women
9 were placed in jail. So myself and the other guy we
10 decide we were going to go on a fast. So we wouldn't
11 accept the bread and water. We fasted for about a week
12 til we passed out. And they took us out, took us down
13 to Sumter County hospital and pumped some fluids in us,
14 took us back to the jail. After that, we went to work.
15 Each day they would take us out with an armed guard.
16 And they had special details for us because we were
17 civil rights demonstrators, we were those agitators.
18 The most egregious duty they had for us was to shovel
19 -- they took us to the sewage plant in Americus, those
20 long pools of sewage, and once a week we had to dig out
21 those. They would send an armed guard with us, just
22 the two of us. They put us on the back of a truck with
23 an armed guard. They'd take us to these pools, and
24 they'd give us pitch forks, not shovels, pitch forks to
25 shovel up the sewage on the back of this dump truck.

1 And on weekends they put us on the back of a garage
2 truck to pick up the garbage in communities. We dug
3 ditches, we cut grass, anything the city thought, but
4 the worse duties they would give to us because they
5 were trying to punish us even more.

6 Q. Well, after you were released did you do any
7 picketing of local stores in Americus?

8 A. Yes. Every move -- any time they attempted to
9 suppress us and oppress, even -- it just embolden us
10 that we knew that there was no turning back. Once we
11 became involved and emerged in that struggle, we knew
12 that we were at a point that we had to do what we -- we
13 had to pursue and just go to the next level, which
14 meant places of -- testing other places of public
15 accommodation, the restaurants, and, of course, the
16 theater, the schools. The grocery stores that refused
17 to hire blacks, we would have what we called shop-ins
18 where we would just go into the stores and we'd just
19 take an empty cart and just push it around the store,
20 demanding that they hire blacks in positions, store
21 clerks and what have you, things like that.

22 Q. Well, was there any big civil rights demonstration
23 that took place in Sumter County in the 1960s?

24 A. Yes, there were. '63 was when the largest
25 demonstrations occurred, which, as I mentioned, started

1 out around the Martin Theater, but then there were
2 other places of accomodation that we were trying to
3 integrate as well. And as people became arrested, more
4 and more people would meet, and they would follow those
5 demonstrations as well and become arrested. So much so
6 that the jails became full in Americus, and they began
7 to take demonstrators out to different counties to be
8 jailed, places like Leesburg, Terrell County. The most
9 infamous was the Leesburg, Georgia stockade, which was
10 an abandoned prison camp where they took up to 35 minor
11 girls, age from 11 to like 15. They were first jailed
12 in Americus, but then in the middle of the night they
13 took a tractor-trailer truck, backed it up to the jail,
14 loaded all these girls into the back of this
15 tractor-trailer truck and drove them down to Leesburg,
16 not knowing were they were going, they couldn't see
17 where they were going. Their parents hadn't been
18 notified and they dropped them off in abandoned prison
19 camp that hadn't been occupied in at least 15, 20
20 years. It was rat and rodent infested. On one
21 occasion a guard put a snake in there with them. And
22 some of them stayed in there from two weeks up to 35,
23 40 days. This story has been documented in a film
24 called The Stolen Girls of Americus. You can Google
25 that, and you'll see that entire story. But there were

1 other of us who were sent out to Dawson, Georgia
2 stockades as well.

3 Q. Well, do you know approximately how many civil
4 rights demonstrators were arrested at that time?

5 A. I think in the summer of '63, I would say close to
6 3 to 500 people over a period of time.

7 Q. Well, does the phrase the Americus Four have any
8 relevance --

9 A. Yes.

10 Q. -- or resonation with you?

11 A. On one occasion during a demonstration at night --
12 and sometimes a demonstration was spontaneous, they
13 weren't planned. We would have these mass meetings,
14 and after the mass meetings people would go out into
15 the streets and decide to protest and march on the --
16 the theater, for instance. On this particular night
17 the strategy for the city officials and the police was
18 that they want to cut off the head of the snake, and
19 they thought the head of the snake was the civil rights
20 leaders who were there. There were snake people.
21 There was one person who was from CORE, Congress of
22 Racial Equality and from SCLC also. On this particular
23 night, as we marched down Cotton Avenue -- well, I was
24 in jail at the time, but as they marched down Cotton
25 Avenue, the police singled out four civil rights

1 workers, three from SNIK and one from CORE, Congress of
2 Racial Equality, and they charged them with
3 insurrection, a century old law that at that time
4 demanded the death penalty in Georgia. It was a death
5 penalty offense, a capital offense. So they arrested
6 them, separated them, put them in jail. They stayed in
7 jail three months and they were finally represented by
8 the gentleman who this building is named after C.B.
9 King, who represented all of us. That's an irony that
10 I find myself today in a building, that C.B. King was
11 the attorney who represented all of us and they were
12 successful in that trial. They were released three
13 months later after having served about 90 days in jail.
14 The case itself captured the nation and also the
15 international community because the thought that these
16 guy could be arrested and possibly sentenced to death
17 for exercising their constitutional rights.

18 Q. Well, were there any subsequent civil rights
19 demonstrations in 1965?

20 A. Yes. '65 brought about another turn of
21 demonstration. The first woman to run for justice of
22 the peace against a gentleman who I said attacked me,
23 J.W. Southwell, was Mary Kate Fish Bell. She decided
24 that she would run for the office. On the day of the
25 election, she, as a candidate, and three other women

1 decided they wanted to vote -- the voting lines were
2 segregated, of course. So they decided they wanted to
3 get in the white voting line to see if they could vote.
4 Well, they did, and they got arrested. That galvanized
5 the community, and so another set of demonstrations
6 began that lasted several weeks demanding their release
7 from jail. They were finally released, but there were
8 a lot of demonstrations, and on one occasion there was
9 -- whites in the community had formed these night rider
10 groups who would ride through the black communities,
11 most notably the housing projects on the north side of
12 town, and they would throw fire bombs and bottles and
13 bricks into those homes and shoot into the air and
14 things like that. One night we were having an all
15 night vigil on the grounds of the courthouse demanding
16 the release of those women. We brought our blankets
17 and sleeping bags to literally sleep on the concrete
18 floor of the parking lot of the courthouse. About an
19 hour after we'd been there, we heard shots ring out,
20 and a block away, we learned later on that a white
21 youth had been killed by two blacks who had been -- who
22 had rode by that -- what was happening was that whites
23 had gathered on the corner, and they were throwing
24 bricks and bottles into every car that came by that had
25 black people, black occupants in the car. Well, it

1 turned out they threw bricks at this car and one of the
2 guys was armed, and so he shot into the crowd and
3 killed one of white youths on the corner. And, of
4 course, when we heard that news, everybody -- we
5 thought it best that everybody leave so we packed up
6 our sleeping bags and we ended that demonstration that
7 night and dispersed.

8 Q. Well, during the time that you lived in Sumter
9 County did you think that voting was racially
10 polarized?

11 A. Very much so. Every attempt was made to keep
12 African Americans from voting. My mother, who had not
13 been registered, and her brother, who drove a cab, I
14 recall the first day that she registered to vote and
15 how happy she was, but before that, what really drove
16 her, was that -- as I said, she was a domestic worker,
17 and she had been at a rally at the courthouse grounds
18 before she had registered, and she had been seen by the
19 neighbor of the woman she worked for, and when the
20 woman reported that she had seen her at the courthouse,
21 she fired her. Well, she got work after that, but, I
22 mean, this woman fired her because she was at the
23 courthouse attempting to register to vote. See, there
24 was that kind intimidation. Some that was more blatant
25 than others at times.

1 Q. So you graduated in 1964; is that correct?

2 A. That is correct, yes.

3 Q. Well, what did you do after that?

4 A. I continued to stay in Americus, working in the
5 movement for about another year and a half doing the
6 same kind of work. At the time the organization of
7 Student Nonviolent Coordinating Committee was offering
8 scholarships for people to go to college if they would
9 return to their home town and continue the kind of work
10 we had been doing. So I had a scholarship to go to
11 Tougaloo College in Mississippi, Tougaloo, Mississippi,
12 just outside of Jackson. I went there to -- I was
13 going to major in socialism -- sociology. I stayed
14 there a couple of years, but I -- when I got there my
15 work really began to -- Mississippi was involved in its
16 own civil rights movement, and so I wound up working a
17 lot in the Mississippi Delta with tenant farmers who
18 had been displaced and taken off their property for
19 registering to vote and things like that. On one
20 evening I was going to a lecture, and as it turned out,
21 the lecture was conducted by an attorney called Warren
22 Fortson from Americus who was a brother of the
23 secretary of state, then secretary of Ben Fortson.
24 Warren Fortson was a white lawyer from Americus who had
25 defended -- defended two black students, two of them

1 had gone to Americus -- attended Americus High. He had
2 been an ally of the Civil Rights Movement, and for that
3 alliance he had been forced to leave Americus, forced
4 out of Americus. He now lives in Atlanta. I left
5 Tougaloo after a couple of years, but at that lecture
6 in Mississippi I ran into Warren, and I told him I was
7 going to be leaving pretty soon, and he said, well,
8 what are you going to do. I said, I don't know. He
9 said, well -- I told him I was going back to Atlanta,
10 and he said, well, I'll tell you what, go by the
11 secretary of state's office, my brother Ben, and see
12 what -- so I went by his office, and they sent me to
13 the state department of archives and history, and I
14 found a job there, and I was taken in as an apprentice,
15 and I learned the craft of paper restoration, and
16 conservation and restoration, and I did that, restoring
17 state documents and papers for about 15 years, learning
18 the craft of how to restore paper documents. During
19 that time I took up photography. I enrolled in the Art
20 Institute of Atlanta. Before I resigned my job at the
21 archives, I opened up an art gallery, and I got to the
22 point where I was comfortable enough, I resigned the
23 state job, and I continued the art gallery job for
24 about 15 years. When I closed the gallery, I went to
25 work for the High Museum of Art, and there I worked at

1 in the gift shop and also as an installation,
2 installing art work, what have you. I resigned from
3 that position in '90 -- I'm sorry, 2013.

4 **Q.** Well, do you know when the schools were
5 desegregated in Sumter County?

6 **A.** In '64, I believe it was when we -- you mean the
7 first attempt to integrate the schools or when it was
8 officially -- the first attempts was -- there were four
9 students who integrated Americus High. Dobbs Wiggins,
10 Jewel Wise, Robertiena Freeman, was the daughter of one
11 of the ministers whose church we used, and David Bell.
12 Those four students were the first ones to integrate
13 Americus High, and they faced all kinds of harassment,
14 physical, beatings and what have you, things like that.
15 As well as students from Koinonia Farm, nearby Koinonia
16 Farm. I don't know if people are familiar with
17 Koinonia Farm outside of Americus. They were allies of
18 the Civil Rights Movement, and it was a place of refuge
19 for us. When we would be released from jail, it was a
20 place we could go to revitalize and rejuvenate
21 ourselves for the next battle. It was an integrated
22 community, and their kids suffered the same abuse as
23 black students as well because --

24 **THE COURT:** Excuse me. Excuse me, just one
25 moment. I thought the question was when were the

1 schools integrated. I know the witness has a lot of
2 information about a lot of things, but we've got to
3 manage the evidence a bit so that we can get finished,
4 and I thought your question was when was the school
5 integrated, and we are out into other communities,
6 outside of Americus. What I'm saying is, if you would
7 assist the witness in narrowing his testimony where
8 it's needed so we would get to those things that are
9 most directly pertinent to the issues here.

10 **MR. MCDONALD:** I will, Your Honor. I have
11 just a few more questions, Your Honor, but I will ask
12 the witness to be more specific.

13 **BY MR. MCDONALD:**

14 **Q.** When were the schools formally desegregated in
15 Sumter County?

16 **A.** I believe it was '64. I'm just not sure though.
17 I'm not sure of the year exactly.

18 **Q.** Well, do you know what the response was in the
19 white community to the formal desegregation of public
20 schools in Sumter County?

21 **A.** The response immediate was -- during that time, if
22 I can elaborate, there was effort to -- I think the
23 local officials saw the handwriting on the wall after
24 the *Brown versus Board*, and I recall the commission
25 called a Sibley Commission, I believe, where they were

1 ten counties, I believe. They decided to hold these
2 meetings on how communities would respond to
3 integration of the school, and Sumter County, I
4 believe, was where the first meeting was held. And
5 what was decided was that segregation at any cost.
6 That was when the first private school came about,
7 Southland Academy in Americus, I believe. Their
8 response was to create private schools that would
9 remain segregated at that time.

10 Q. What was the name of the school?

11 A. Southland Academy.

12 Q. Do you know what the racial composition of that
13 school is today?

14 A. I believe it's probably still about 95 percent
15 white and about maybe 3 to 4 percent black I believe.

16 Q. Well, do you still have contact with Americus and
17 Sumter County?

18 A. I do, yes. Several years ago myself and several
19 other veterans of the Americus Civil Rights Movement
20 came back to Americus, and we decided that we would
21 begin to collect and document all activities of the
22 Civil Rights Movement. That meant collecting papers,
23 photographs, film, whatever we could find, artifacts
24 memorabilia, that -- from the movement, and our
25 long-range goal was to eventually house it in a civil

1 rights museum or a civil rights center so that we could
2 pass on the struggles of my generation to this
3 generation so they could empower themselves and know
4 that the struggle that we face is never over, that it's
5 a continuing struggle, and they have to be prepared for
6 it. The organization is called the Americus-Sumter
7 County Civil Rights Movement Remembrance Committee.
8 That is a long title, but we've held several
9 remembrances where we've recognized people who have
10 contributed to the Civil Rights Movement in Americus
11 and Sumter County. We started out giving scholarship
12 to kids, book scholarships. We try to recognize those
13 leaders in the community who continue to uplift and
14 empower that community, politically, culturally, and
15 what have you. We don't want the building that we
16 eventually have to just be a place where people can
17 come and look at things. We want it to be a living
18 place where they can come and be engaged in things that
19 will empower them eventually.

20 Q. Well, have you been involved in any recent
21 meetings or conferences in Sumter County?

22 A. Yes. I recently attended the fifth anniversary of
23 the Koinonia Farm. We continue to hold -- I
24 participated in the NAACP annual conference banquet.
25 We participate in King Day activities in Americus, our

1 organization, Martin Luther King Day. We try to
2 participate in all the community activities that occur
3 there.

4 Q. Well, my last question for you is, how would you
5 describe race relations today in Sumter County?

6 A. It's interesting because I go to Americus now --
7 you know, Americus is my hometown, I mean, and I always
8 tell people that I may not live in Americus, but
9 Americus lives in me, and that is to say that it will
10 always be my hometown, but I come back now and I see
11 things virtually unchanged. It's a city that's still
12 polarized. It's a school system that remains as
13 segregated today as it was 50 years ago in my opinion.
14 I still see inequities in the school system. There's
15 very little interaction between whites and black. And
16 it's a far cry from what you would think it would be
17 56 years later. We've been trying to get the city to
18 recognize the history of the Civil Rights Movement and
19 not only to see that it not only impacted Americus, but
20 it impacted the nation, because what happened in
21 Americus literally impacted the 19 -- Civil Rights
22 Bill, you know, and also the Voting Rights Act as well.
23 The struggle that took place there. Had it not for
24 those demonstrations on a daily basis, it would not
25 have forced that legislation out of Congress to get

1 bills finally passed. So this is history that we
2 need -- we want to pass on, but we don't get the
3 support from the city. The city doesn't want to
4 recognize that. We have a building that's been -- a
5 little development toward the northern corridor of
6 Americus. All the development has gone toward the
7 southern part of Americus where whites live. They're
8 historic buildings in the northern corridor where the
9 blacks are, but they refused to be recognized in the
10 historic district, and because of that we can't seek
11 funding that -- to renovate or rehabilitate those
12 buildings that are historic in nature. And there just
13 seems to be very little willingness to embrace that
14 history, you know, and help us with this project. It's
15 still segregated.

16 Q. Thank you very much, Mr. Mahone.

17 MR. MCDONALD: Your Honor, that's all the
18 questions I have.

19 THE COURT: All right. Cross examination,
20 Mr. Braden?

21 MR. BRADEN: No questions, Your Honor.

22 THE COURT: All right. Is there any reason
23 this witness cannot be excused? Just a minute.

24 MR. BRADEN: He may be excused, Your Honor.

25 MR. MCDONALD: No reason, Your Honor.

1 **THE COURT:** All right. Nobody objects and
2 you can leave if you wish or remain if you wish. All
3 right, you may call your next witness.

4 **MR. MCDONALD:** Our the next witness is John
5 Marshal, Your Honor.

6 **THE COURT:** All right.

7 **COURTROOM DEPUTY:** Do you solemnly swear or
8 affirm that the testimony you are about to give in the
9 case now before the Court will be the truth, the whole
10 truth, and nothing but the truth?

11 **THE WITNESS:** I do.

12 **THE COURT:** All right, you may begin, Mr.
13 McDonald.

14 **JOHN MARSHALL**

15 **Witness, having first been duly sworn, testified on**

16 **DIRECT EXAMINATION**

17 **BY MR. MCDONALD:**

18 **Q.** Would you please state your name for the record?

19 **A.** John D. Marshall.

20 **Q.** And what is your race, Mr. Marshall?

21 **A.** Black.

22 **Q.** And where do you currently live?

23 **A.** I'm 155 Markenburg Drive in Americus, Georgia.

24 **Q.** Well, let's redact your address --

25 **MR. MCDONALD:** Your Honor, is that correct?

1 He gave his address.

2 THE COURT: Well, you can, but it's already
3 -- it just saves y'all a lot of trouble for redaction
4 later on.

5 MR. MCDONALD: Okay. Thank you, Your Honor.

6 THE COURT: If you ask a witness that
7 directly, they're going to give you the information.
8 So you have to warn them not to be that specific.

9 MR. MCDONALD: I should have done that, Your
10 Honor. I apologize for not having done that.

11 THE COURT: All right.

12 BY MR. MCDONALD:

13 Q. So when and where were you born?

14 A. I was born in Savannah, Georgia, 1946.

15 Q. And what did your parent do there?

16 A. My father was a railroad man for 44 years on the
17 Central Georgia Railroad. My mother was a beautician.

18 Q. Well, I don't want to ask too many questions about
19 Savannah, Georgia since this lawsuit involves Sumter
20 County, but was Savannah racially segregated when you
21 were growing up there?

22 A. Yes it was, very segregated.

23 Q. And what was like growing up in Savannah for you?

24 A. Well, just like any other typical black American,
25 we were segregated. We were on the west side of town.

1 Whites were on the east side. I went to all black
2 schools. I graduated from a black high school. And it
3 was just segregated situation.

4 Q. All right. Well, what did you do after high
5 school?

6 A. After high school I went to Savannah State College
7 in Savannah, Georgia, and after that I went into the
8 Air Force for four years. And after the Air Force I
9 worked for Pfizer Pharmaceutical for six years, and
10 then I went on to medical school.

11 Q. And when did you come to Sumter County?

12 A. I came to Sumter County in 1986.

13 Q. Well, what did you do when you came to Sumter
14 County?

15 A. When I came to Sumter County in 1986, I had
16 attended medical school, and I attended on a
17 scholarship through public health. And when I finished
18 medical school, I had to come to an area of need, and
19 Sumter County was the area of need that I came to.

20 Q. And where specifically in Sumter County?

21 A. Now, once I got to Sumter County, I first worked
22 at Plains Clinic, Jimmy Carter's hometown, and the
23 clinic subsequently closed down temporarily in '88, and
24 then I moved over to Leslie, Georgia, which is still in
25 Sumter County, and I finished my public health

1 obligation there, and I stayed here after that.

2 Q. So you've been in Sumter County then for -- from
3 what year to?

4 A. From '86 to now, 31 years.

5 Q. Well, have you ever run for public office?

6 A. No.

7 Q. And tell me why not.

8 A. Well, I had been president of the NAACP, and it's
9 hard to run for office and fight in civil rights type
10 organizations, so I would work and help out candidates,
11 but I did not run.

12 Q. Well, have you been involved in any public affairs
13 in Sumter County?

14 A. What you mean public affairs?

15 Q. Well, you know, organizations.

16 A. Yeah, well, like I said, I was president of NAACP,
17 National Association for the Advancement of Colored
18 People, for 14 years in Sumter County, and I was
19 succeeded by Mr. -- Reverend Mat Wright, and probably
20 some other organizations, but that was the main one
21 that I participated in where I --

22 Q. Well, what did you do when you were a participant
23 in the work of the NAACP?

24 A. Well, as president we had to deal with a lot of
25 complaints, usually complaints dealing with unfair

1 practices, racist type actions against several blacks,
2 and we also defended some whites, but it was pretty
3 much fighting for the rights of those, whether it was
4 employment, law enforcement, any -- almost any area
5 where people were working, hospitals, anywhere there
6 were discrimination cases, unfair practices.

7 Q. Well, did you read any articles in the local
8 newspaper that you thought were racially improper?

9 A. Oh, you talking the local paper we have.

10 Q. Yes.

11 A. In Sumter County. Yes. In fact, it was -- I was
12 a victim of that paper because I had -- I was president
13 of NAACP, and there was an old lawsuit against me, and
14 it was dropped, but because the editor of that local
15 white-dominated white newspaper in Americus wanted to
16 make an example of me and she published on the front
17 page above a full article about that lawsuit which was
18 dropped. And so not only in several other cases, but
19 we've seen them in that particular newspaper go after
20 pretty much progressive blacks, blacks who are in
21 important positions, blacks who ran for office, that
22 paper would give a lot of negative news on them.

23 Q. Well, what was the name of that local newspaper
24 you're referring to?

25 A. The Americus Times Recorder Newspaper.

1 Q. And did you ever have an occasion to make a
2 comment on an article that was entitled the Cornbread
3 Murder?

4 A. Yes. That was the reason why the editor came
5 after me. When I saw the article the Cornbread murder,
6 this was a woman whose husband shot her and allegedly
7 she had burned some cornbread. The gentleman, the man
8 who shot her was mentally ill, and I went to the editor
9 of that paper and I told her this was wrong to
10 sensationalize this woman's death about a cornbread and
11 to call it the cornbread murder. So after that she
12 decided to put me in the paper, and that's when, after
13 she did that, that's when I had to develop my own
14 paper.

15 Q. So you developed your own paper in response to the
16 article?

17 A. Yes. And the other negative articles against
18 black people in that city. That was why I did the
19 paper.

20 Q. What was the name of the newspaper that you
21 founded?

22 A. The newspaper is the Americus Sumter Observer
23 newspaper.

24 Q. Is it still in existence?

25 A. It's been in existence for 20 years this year.

1 Q. What issues do you cover in the Americus Sumter
2 Observer?

3 A. Pretty much what the NAACP was doing, and that was
4 exposing any racial discrimination, unfair practices,
5 and just news articles that they would put in, we would
6 counter it with the truth if we -- if we had
7 information and research that it was a lie, we would
8 show the truth. So we did a lot of that in Sumter
9 County.

10 Q. Do you continue to do that or?

11 A. Still doing it to this day.

12 Q. Well, do you have any examples of recent things
13 that you've done that you just described?

14 A. Hmm, recent. I can't think of anything right now.
15 If I think of it, I'll tell you in a minute.

16 Q. Okay. Well, how would you describe your
17 readership, to whom are you --

18 A. We are actually reaching quite a few. We don't
19 have a scientific or a certified number of readers
20 listed and you can certify them, but we do reach, we
21 estimate, about 25,000 because we actually give papers
22 away to churches and to beauty shops and what have you,
23 plus we have the actual newspaper racks, and we
24 distribute that way. So we do reach quite a few. And
25 our thing is that everybody does not read it, but we

1 notice that the nonreaders hear about what we've done
2 through readers.

3 Q. Well, based on your experience living in Sumter
4 County how would you describe race relations today in
5 Sumter County?

6 A. It's still pretty much as racist as it was when I
7 first got here in 1986. I couldn't believe some of the
8 thing I saw. The biggest thing I saw when I got here
9 was the people were so -- blacks were so afraid, they
10 were almost trembling in fear, and I watched this, and
11 that's one of the reasons why I became very active
12 because I did not like the way they were treated, and I
13 thought I needed to fight for that.

14 Q. Well, do you think that your newspaper has had any
15 impact on race relations in Sumter County?

16 A. Oh, I think it has because when we first came out,
17 we had to really fight that local white paper, the
18 Times Recorder. As time went on, whenever we would
19 expose racist discriminatory behavior from whatever
20 entity, the public looked at that, and they were
21 waiting on that Times Recorder to counter us as if we
22 were not telling the truth, but as time went on, the
23 public realized that we were giving true information,
24 information that we could support and back up. And
25 that other paper couldn't do it, and they couldn't come

1 after us because we had the truth on our side while
2 they were coming with other things.

3 Q. Well, as someone who has lived in Sumter County
4 how do you think that the Sumter County School Board
5 functioned when blacks were a majority of its members?

6 A. It was very apparent that when we had blacks in
7 the majority of that school board, the achievement went
8 up on, AYP. Most of the schools, almost six schools
9 had great scores with average yearly progress. We had,
10 when Dr. Perry, the first black superintendent we had
11 and the majority was black, we had six black male PhDs
12 in administration. As soon as he left and the majority
13 changed to white, we ended up with hardly any. So we
14 lost a lot. The main thing that we lost was the
15 achievement and the progress of the students.

16 Q. Well, do you know how many black candidates have
17 run for countywide office in Sumter County?

18 A. Oh, yes. Bill Houston, who ran for sheriff before
19 I got here, he became a friend of mine. In fact, he
20 helped me get placed and what you have. He ran for
21 sheriff countywide and lost. He was a high ranking
22 policeman in Detroit, and this is his home in Americus,
23 he came back to run for sheriff, but he didn't win
24 countywide. We also had just recently two school board
25 members that just ran, Michael Coley, Kelvin Pless,

1 they ran in these at-large districts, and they both
2 lost.

3 Q. Well, do you think that blacks in Sumter County
4 today are politically cohesive and tend to vote as a
5 block or a group?

6 A. Yes, we have done that, yes.

7 Q. What do you base your view on?

8 A. Well, just looking at the actual numbers, the --
9 when we look at those numbers at the end of these
10 elections we see that most blacks voted Democratic and
11 voted in a block.

12 Q. Well, just one moment. Can you tell me what year
13 the black candidate ran for sheriff that you just
14 testified about?

15 A. Well, the candidate ran for sheriff -- oh, we also
16 had one, I forgot, one other candidate was Nelson
17 Brown. But I can't tell you the year, but he ran
18 probably about, maybe ten years ago. In fact, he ran
19 twice for sheriff, and he lost. But I can't tell you
20 the year. I just can't remember the year. It was
21 probably more than ten years ago.

22 Q. Well, as a medical doctor do you think there's has
23 been a history of discrimination against blacks by the
24 state in Sumter County in such areas as health, voting,
25 education, and employment?

1 **A.** Yes. As a medical doctor I have been really
2 disturbed by the fact that we did not get the Medicaid
3 expansion in Georgia from the governor, and we've lost
4 a lot of lives right in Sumter County in this area
5 because they don't have access to medical care. They
6 can't get preventive care and a lot of people -- we
7 actually lost the hospital over in Montezuma, which a
8 lot of people used to have to go there. And if you
9 lose a hospital, and they can't get care, if somebody
10 is about to have a heart attack, you are not going to
11 make it to Americus or Perry, wherever they had to go.
12 So I have been disturbed about the way healthcare is on
13 the state level. And even locally we've had problems
14 with our local hospital administration, trying to get
15 them to take care of these indigents, and the quality
16 of care has gone down, Albany, as well as Sumter
17 County.

18 **Q.** Well, do you think that has a disparate impact on
19 blacks?

20 **A.** Yes, because most of those patients in those
21 hospitals are black. I don't know about in Albany
22 because a lot blacks would leave -- a lot of patients
23 would leave Sumter County and come to Albany or go
24 somewhere else. So it left a lot of blacks that were
25 victimized in these hospitals, especially in Sumter

1 County.

2 **THE COURT:** All right. Let's stop here. I
3 think it's an appropriate place to stop for our lunch
4 break. And we'll resume with the completion of direct
5 at 1:30. We'll be in recess.

6 *(RECONVENED; ALL PARTIES PRESENT, 1:35 p.m.)*

7 **THE COURT:** All right. Mr. McDonald, you may
8 continue the direct examination.

9 **MR. MCDONALD:** May it please the Court.

10 **THE COURT:** Yes, sir.

11 **BY MR. MCDONALD:**

12 **Q.** Dr. Marshall, do you think blacks in Sumter County
13 have a depressed socioeconomic status compared to
14 whites?

15 **A.** Yes, we do. The economy is such that we don't
16 have the jobs, at least that we used to have, so it's
17 even worse than it was when I got there. At least they
18 had much more industry there, but now it's much less,
19 and it impacts blacks more than any other group.

20 **Q.** Well, do you think that that depressed status has
21 any impact on black participation in the political
22 process and school board elections?

23 **A.** Possibly, possibly, because when people are
24 thinking about trying to make a living and traveling to
25 find a job somewhere other than Sumter County, it makes

1 it hard on elections and to get people to vote like we
2 want. So it's been kind of hard. It does impact them.

3 **MR. MCDONALD:** That's all the questions I
4 have, Your Honor.

5 **THE COURT:** All right. Cross examination,
6 Ms. McKnight?

7 **MS. MCKNIGHT:** Yes, thank you, Your Honor.
8 We have no questions for this witness.

9 **THE COURT:** All right. Is there any
10 objection to this witness being excused?

11 **MR. SELLS:** Can witness be excused, Your
12 Honor?

13 **MS. MCKNIGHT:** No objection, Your Honor.

14 **THE COURT:** No objection. Then you are
15 excused, sir, and you may leave if you wish or stay,
16 whatever your pleasure. All right. You may call your
17 next witness.

18 **MR. SELLS:** Your Honor, the plaintiffs call
19 Alice Green to the stand.

20 **COURTROOM DEPUTY:** Do you solemnly swear or
21 affirm that the testimony you are about to give in the
22 case now before the Court will be the truth, the whole
23 truth, and nothing but the truth?

24 **THE WITNESS:** Yes.

25 **THE COURT:** All right. You may proceed.

1 **MR. SELLS:** Thank you, Your Honor.

2 **ALICE GREEN**

3 **Witness, having first been duly sworn, testified on**

4 **DIRECT EXAMINATION**

5 **BY MR. SELLS:**

6 **Q.** Good afternoon, Ms. Green.

7 **A.** Good afternoon.

8 **Q.** Would you please state your full name for the
9 record?

10 **A.** Alice Virginia Green.

11 **Q.** And in what city do you live, Ms. Green?

12 **A.** Americus, Georgia.

13 **Q.** What do you do for a living?

14 **A.** I'm a retired educator.

15 **Q.** Ms. Green, you're a current member of the Sumter
16 County Board of Education from district one, correct?

17 **A.** Yes.

18 **Q.** Great. Before we get into your service on the
19 board, I want to find out a little bit more about your
20 background. When and where were you born?

21 **A.** I was born in Seminole County, Georgia. When?

22 **Q.** In what year?

23 **A.** In 1944.

24 **Q.** Thank you. Did you grow up in Seminole County?

25 **A.** I did.

1 Q. Where did you go to school?

2 A. In Seminole County, high school, that is.

3 Q. You went to Seminole County High School. And for
4 those of us who may not be familiar with Georgia
5 geography, where is Seminole County relative to Sumter
6 County?

7 A. It's Southwest Georgia, south of Albany.

8 Q. Did you graduate from high school in Seminole
9 County?

10 A. Yes.

11 Q. In what year?

12 A. '62, 1962.

13 Q. Were the high schools integrated in Seminole
14 County when you attended?

15 A. No.

16 Q. What did you do after graduating high school?

17 A. I attended college in Fort Valley State in Fort
18 Valley, Georgia.

19 Q. And did you graduate from Fort Valley State?

20 A. I did.

21 Q. And in what year and with what degree?

22 A. 1973, a bachelor's degree in social science.

23 Q. Let me ask you a few questions about your
24 employment history. What was your first job out of
25 college?

1 A. Teaching at the Macon County.

2 Q. And what school in Macon County did you teach in?

3 A. It was Oglethorpe Grammar School at that time.

4 Q. Were the schools integrated when you taught there?

5 A. They integrated while I was there.

6 Q. What did you teach?

7 A. Social Studies.

8 Q. And did you teach in a black school or a white
9 school?

10 A. I taught at a black school.

11 Q. Where did you work after you left Macon County
12 public schools?

13 A. Americus.

14 Q. And for whom did you work in Americus after you
15 left Macon County public schools?

16 A. The Sumter County Board of Education.

17 Q. Were Sumter County schools integrated when you
18 began teaching there?

19 A. They were.

20 Q. And how long did you work for Sumter County
21 schools?

22 A. 26 years.

23 Q. When did you retire?

24 A. 2000.

25 Q. Did you work at all after that?

1 A. Yes. I worked four years at South Georgia
2 Technical College in adult education.

3 Q. So how long have you lived and worked in Sumter
4 County, Georgia?

5 A. I have lived in Sumter County, Georgia for
6 44 years. I worked in Sumter County for 27 years and
7 the other five years in Macon County.

8 Q. So you were living in Macon County while you were
9 -- excuse me. You were living in Sumter County while
10 you were working in Macon County?

11 A. Yeah.

12 Q. Okay. You have lived in Sumter County for the
13 last 44 years?

14 A. I have.

15 Q. Okay. Do you belong to a church in Sumter County?

16 A. Yes.

17 Q. Which one?

18 A. Friendship Missionary Baptist Church.

19 Q. How long have you been a member of that church?

20 A. I became a member of Friendship in 1976, so since
21 1976.

22 Q. Approximately how many members does your church
23 have?

24 A. I would say approximately, maybe a thousand
25 members.

1 Q. A thousand members sounds to me like a pretty
2 large church. How large is it in -- among the churches
3 in Sumter County?

4 A. It is one of the largest churches, however, I said
5 a 1000 members, but that doesn't mean active membership
6 there every Sunday, you know.

7 Q. I hear some chuckling from the reverends in the
8 back, I think. What percentage of the congregation at
9 your church is African American?

10 A. 98 percent.

11 Q. I should have asked -- do you regularly attend on
12 Sundays?

13 A. Yes.

14 Q. Okay. It's foundation for knowing the makeup.
15 Are you involved in any community organizations other
16 than your church?

17 A. I am.

18 Q. Can you list those organizations for me?

19 A. Yes. Delta Sigma Beta Sorority, Incorporated,
20 City Federation of Colored Women's, Incorporated,
21 Silver Circle Civic and Social Club, the Phoebe Sumter
22 Auxiliaries, Order of the Eastern Star, and Heroines of
23 Jericho, Daughters of Isaac, and I think that might be
24 it.

25 Q. Okay. I want to ask you first about the last

1 three you mentioned, the Order of the Eastern Star,
2 Daughters of Isaac, and the Heroines of Jericho. What
3 are those?

4 A. Those are organizations that are affiliated with
5 the Maternal Order of the Masonic's.

6 Q. How long have you been involved in those orders?

7 A. Approximately, Eastern Star about 35 years and the
8 others maybe 30 years or less, difference.

9 Q. Let me ask you for some general background on the
10 Masons so we can understand your testimony. The Masons
11 are a fraternal organization, correct?

12 A. Of men.

13 Q. Of men.

14 A. And I'm a member of the Eastern Star, which is
15 like sisters, I guess, to the Masons.

16 Q. Okay. Are there predominantly white Masonic
17 organizations, and are there predominantly black
18 organizations?

19 A. There are.

20 Q. And the orders to which you belong are related to
21 the predominantly black Masonic organizations, correct?

22 A. Right.

23 Q. Approximately what percentage of the local Sumter
24 County members in the orders that you belong to are
25 African American?

1 A. To my knowledge, 100 percent.

2 Q. Are there predominantly white Masonic
3 organizations in Sumter County?

4 A. It is.

5 Q. Are there any African American members of the
6 white Masonic organizations in Sumter County?

7 A. Not to my knowledge.

8 Q. Do the white Masonic organizations and the black
9 Masonic organizations in Sumter County ever hold events
10 together?

11 A. No. Not to my knowledge, no.

12 Q. Let me ask you next about the Silver Circle Civic
13 and Social club. That's a mouthful, but what is that?

14 A. That's basically a social organization, but we do
15 some civic work also. Its objective is to better the
16 community.

17 Q. How long have you been a member of that
18 organization?

19 A. Since 1977. It was founded in 1977.

20 Q. And were you one of the founders?

21 A. Yes.

22 Q. Have you held any leadership positions in the
23 organization?

24 A. Yes.

25 Q. Such as?

1 A. President. I'm currently president today, and
2 I've been president for about ten years.

3 Q. Does the Silver Circle Civic and Social Club
4 engage in any political activity?

5 A. Not -- we do somewhat, such as trying to do voter
6 education in the community.

7 Q. Okay. What does that mean?

8 A. Just try to educate the people when elections are
9 coming up, the candidates, and just urge them to get
10 out and vote and make their voice heard.

11 Q. What percentage of the Silver Circle Civic and
12 Social Club's members are African American?

13 A. 100 percent.

14 Q. Let me ask you next, about the City --

15 A. -- Federation of Colored Women's Clubs.

16 Q. Thank you. City Federation of Colored Women's
17 Club. What is that?

18 A. That's a national organization of African American
19 women that also -- they form the sisterhood to try to
20 better the community, to work to make the communities
21 better.

22 Q. And how long have you been a member?

23 A. I would say about 25 years.

24 Q. Have you held any leadership positions in that
25 organization?

1 A. Yes.

2 Q. Such as?

3 A. President and secretary. Currently I'm -- and
4 I've also been treasurer, but currently I hold the
5 office of secretary.

6 Q. Does that club engage in any political activity?

7 A. Basically the same as the other, small scale, just
8 trying to educate the voters of the importance to vote
9 and to let them know when elections are coming up and
10 who's running and the platforms and to help them be
11 educated so they can make intelligent choices of who to
12 vote for.

13 Q. What percentage of the City Federation of Colored
14 Women's Club is African American?

15 A. In Americus it is 100 percent, but this is a
16 national organization, so I really can't speak above.
17 I'm just familiar with Americus on the state level, but
18 beyond that, I don't know.

19 Q. What is the racial makeup of the membership at the
20 state level?

21 A. I really -- I'm not going to say because I'm not
22 sure 100 percent.

23 Q. Okay. All right. I want to ask you next about
24 Delta Sigma Theta, what is that?

25 A. That's a sorority.

1 Q. And how long have you been with Delta?

2 A. Oh, I joined Delta Sigma -- 25 years.

3 Q. So you pledged a graduate chapter?

4 A. Graduate chapter in Americus.

5 Q. How active is the graduate chapter in Sumter
6 County?

7 A. We're active.

8 Q. Have you held any leadership positions in that
9 organization?

10 A. I have.

11 Q. Such as?

12 A. I was president for eight years. I also served as
13 financial secretary, treasurer. Currently I am social
14 action chair.

15 Q. You are social action chair. And what does the
16 social action chair do?

17 A. We keep our members, as well as the community,
18 abreast also of politics, what's happening in politics.
19 Same thing, keeping them abreast of elections that are
20 coming up and just encouraging them to get out and vote
21 and passing out literature to try to educate them on
22 voting and the importance of voting.

23 Q. How long have you been the chair of the Social
24 Action Committee?

25 A. I did it for two years, and now I'm start -- the

1 second -- for three years, and I have one year left.

2 Q. Okay. Is the Social Action Committee an active
3 committee?

4 A. Right.

5 Q. Why do you want to be on the Social Action
6 Committee?

7 A. Well, I believe that good government require good
8 citizens. The government can only be as good as the
9 citizens so.

10 Q. So tell us what kind of activities the Social
11 Action Committee undertakes.

12 A. Well, like I say, we actually are affiliated with
13 also state and national so we get information down from
14 the national and state level on elections, whether it's
15 at the state level or whatever level. And also we do
16 the same thing, just inform and educate the public.

17 Q. Do you distribute information to the public?

18 A. We do.

19 Q. How do you do that?

20 A. Well, in the last major election we assimilated
21 educational packets, and we distributed them to the
22 members of different churches -- well, our members in
23 the sorority took them to their various churches or
24 organizations or wherever. So we help to distribute
25 that kind of information. And passed out fliers at

1 like Walmart and different places and put the fliers on
2 cars and that kind of thing.

3 Q. What percentage of the membership in the graduate
4 chapter of Delta Sigma Theta in Sumter County is
5 African American?

6 A. It's 100 percent. We're all black.

7 Q. Now, Ms. Green, I am not from Sumter County, and I
8 want you to assume that I know absolutely nothing about
9 Sumter County. Would you please explain to me what
10 race relations are like in Sumter County today?

11 A. Well, race relations. So you're asking does
12 race -- prejudice exist or racism exists? Is that what
13 you're asking?

14 Q. If that's how you want to interpret it.

15 A. Okay. I will say it's very much alive.

16 Q. And what makes you say that?

17 A. Well, when you look back at -- let's just talk
18 about my experience since I've been here, and we talk
19 about the different organizations and we talk about the
20 elections that I've always been involved in. And we
21 look at the result of the elections, and to me that's
22 an indication that it's a grass root problem.

23 Q. Okay. Now, I'd like to turn back to your service
24 on the Board of Education. How long have you been on
25 the board?

1 A. Sixteen years and roughly five months.

2 Q. Why did you decide to serve?

3 A. Well, I -- back -- my background is education and
4 I believe in education. And I just decided to serve
5 after I retired because I had been in the classroom,
6 and I thought this would be a chance for me to serve on
7 the Board of Education. I could represent -- help
8 represent the students and teachers and their concerns
9 and their needs, because I heard it. So I wanted to be
10 like a liaison between the teachers, students, and the
11 Board of Education.

12 Q. Got it. How many times have you been elected to
13 the board?

14 A. Okay. Okay. So it's 2002, '06, '10, '14. Four
15 times. I think it's four.

16 Q. Four times. Tell us about your campaigns. What
17 have you done to campaign in your elections?

18 A. Campaign? Well, largely I did signs. I used -- I
19 did some mailings. I'm old fashioned. I knocked on
20 doors in my district, did some radio spots, and the
21 last election I did a little technology, like social
22 media.

23 Q. Are you planning to run for reelection when your
24 current term is up?

25 A. I cannot say yes, 100 percent because anything I

1 do I kind of spend time in consultation and prayer. So
2 whatever the higher power lead me to do, that's what I
3 would do, however I would like to see the progress that
4 has begun in Sumter County's school system continue.

5 Q. Have you always represented a district in which
6 African Americans make up a majority of the population?

7 A. Yes.

8 Q. Do you think you could win in a district in which
9 African Americans did not make up a majority of the
10 population?

11 A. No.

12 Q. Why not?

13 A. Well, I'm basing it on past experience. It hasn't
14 happened yet, and I don't think it's going to happen,
15 because I think in Sumter County people tend to vote
16 along racial lines.

17 Q. Do you think you could win election to one of the
18 at-large seats?

19 A. No.

20 Q. Why not?

21 A. Because the voters for the at-large seats, I
22 believe the majority of those are white voters.

23 Q. How do you think it would affect your campaigning
24 if you had to run for one of the at-large seats?

25 A. Well, of course, I would -- it would have to be

1 more extensive because at the at-large everybody votes.
2 So I have larger districts to cover. I have -- it
3 would be a great expense for me.

4 Q. It would be a greater expense. Would you have to
5 raise money?

6 A. I would.

7 Q. How much?

8 A. Now, I have never dealt with raising money for
9 campaigning, so I'm not going to say, but I know it
10 would take a lot of money to cover Sumter County.

11 Q. So let me back up. You don't raise money for your
12 district campaign?

13 A. I haven't.

14 Q. But you think you would have to raise money if you
15 were to run at-large?

16 A. Yeah, because I'm going to do -- have to do much
17 more.

18 Q. Would money play into your decision about whether
19 to run?

20 A. No. The children and their education and my
21 concern for education is more important than money.
22 But I would say it would be something that -- a greater
23 expense.

24 Q. Okay. Do you think you could raise the money that
25 you would need to run at-large?

1 A. That's a question where I have to say, oh,
2 probably not.

3 Q. Why not?

4 A. Because of resources in Sumter County.

5 Q. What do you mean?

6 A. I don't think I would have the resources that I
7 would need to help me get elected.

8 Q. Well, if you were trying to raise money from other
9 people, why would your resources matter, or am I not
10 understanding your answer?

11 A. Will you repeat that question so I see if I am
12 understanding your question?

13 Q. Sure, I'll try to clarify. I would like to know
14 why you think you couldn't raise enough money to run
15 for one of the at-large seats.

16 A. Because I don't think I would get the support,
17 because I would need to get out of my community also to
18 get some support.

19 Q. And you don't think they would want to give you
20 support?

21 A. In my opinion I don't think I would get the
22 support I needed, no.

23 Q. Is that because people in your community don't
24 like you or want to vote for you, or is it something
25 else?

1 A. No, I just think there's an attempt to minimize
2 black representation.

3 Q. Okay. Let me ask you a few questions about Sumter
4 County schools. What is the approximate racial makeup
5 of the students who attend Sumter County schools?

6 A. Hmm, there is a majority, I would say -- I'm
7 thinking about 85 percent. It might be a little
8 higher, but it's high.

9 Q. Is the African American share of the school
10 population higher than the African American share of
11 the county at-large?

12 A. Is the -- say that again.

13 Q. Is the black percentage of the Sumter County
14 schools higher than the black percentage of Sumter
15 County?

16 A. Yes, yes.

17 Q. To what do you, a long-time member of the school
18 board, attribute that higher share in the Sumter County
19 public schools?

20 A. Okay. Say that -- ask that question again to make
21 sure I know what you want -- the question you're
22 asking.

23 Q. Sure. I'll try to rephrase so it's clearer.

24 A. Okay. Thank you.

25 Q. Why is the black student population so high

1 compared to the county's population in Sumter County
2 schools?

3 A. The student population?

4 Q. Yes.

5 A. Why there are more students, black students?

6 Q. Yes.

7 A. Than in the county. Well, looking at the schools,
8 the black population, I think, in the schools is so
9 high, higher than the white, because parents -- many
10 parents choose to send their schools (sic) to other
11 counties, to the private school and to other
12 educational facilities, so that makes the white
13 population smaller in the schools.

14 Q. Do you have any sense of why white families send
15 their kids to these other schools?

16 A. It has to be pure speculation, but I think it is
17 because -- to avoid the large percentage of blacks, the
18 children attending school with the large population of
19 black students.

20 Q. What makes you think that?

21 A. Based on what has happened over the years. They
22 continue to take them out is, in my opinion, it's not
23 the quality of education in the neighboring schools,
24 because we have a good curriculum, and we have good
25 schools. So it's just leading me to think perhaps it

1 has to do with race, in my opinion.

2 **Q.** Now, you have been in Sumter County and associated
3 with the Sumter County schools for a long time. Is
4 this a recent phenomenon, this white flight from Sumter
5 County schools?

6 **A.** It's not a recent white flight. It has been going
7 on for some time.

8 **Q.** When did it start?

9 **A.** That, I can't answer when it started.

10 **Q.** Was it present when you started working at Sumter
11 County schools?

12 **A.** Yes, but on a smaller scale at that particular
13 time. But it has been ongoing.

14 **MR. SELLS:** Your Honor, at this point in the
15 record I like to offer an exhibit that is Plaintiff's
16 Exhibit 260, which is the -- an excerpt of the Georgia
17 Advisory Committee to the United States Commission on
18 civil rights entitled -- a report entitled,
19 Desegregation of Public School Districts in Georgia, a
20 Factfinding Report.

21 **THE COURT:** All right, Ms. McKnight?

22 **MS. MCKNIGHT:** Your Honor, the only
23 objections to that would be Ms. Green's -- any
24 foundation for her to testify about it. I don't know
25 what kind of testimony he'll be able to get out of her.

1 He hasn't established that yet.

2 **MR. SELLS:** I am not going to ask Ms. Green a
3 single question about it, but it's the appropriate
4 point in the record, I think, to insert that since she
5 has discussed school desegregation and the --

6 **THE COURT:** I don't understand. How is it
7 because she's discussed it, how does that make it
8 admissible over the objection?

9 **MR. SELLS:** Well, there's no -- it's a self
10 authenticating document.

11 **THE COURT:** That's what I'm asking you. What
12 is the basis for you moving its admission? That's all
13 I'm asking.

14 **MR. SELLS:** I think this is just an
15 appropriate point in the record to offer that exhibit
16 because Ms. Green has been discussing this particular
17 phenomenon in --

18 **THE COURT:** All right. And your basis for
19 its admission is what?

20 **MR. SELLS:** It's a legally admissible
21 document. It is a self-authenticating public record.

22 **THE COURT:** All right.

23 **MS. MCKNIGHT:** The objection stands that it's
24 even more clear now that Mr. Sells intends to ask
25 Ms. Green no questions about this document. He's just

1 asking to have it admitted.

2 **THE COURT:** I mean, we can do this later in
3 the day, but, I mean, unless there is an objection, we
4 can admit it and move on. I don't know.

5 **MR. SELLS:** I don't understand what the
6 objection is to the timing. I could have offered --

7 **THE COURT:** Well, we are not going to spend a
8 long time discussing it. Is there an objection beyond
9 whether or not it has to do with this witness?

10 **MS. MCKNIGHT:** That's correct, Your Honor.
11 No, that's the objection, that there's no testimony
12 from this witness on that document.

13 **THE COURT:** All right. And then you say it
14 is self authenticating. In what way is it self
15 authenticating? Is it certified or what is it?

16 **MR. SELLS:** No, it is what it appears to be.
17 It's a government record that is evident from the face
18 of the document, and there is no authenticity objection
19 from the defendant either.

20 **THE COURT:** All right. If that's the case,
21 then it's admitted.

22 **MR. SELLS:** Thank you.

23 **THE COURT:** And that's number 260?

24 **MR. SELLS:** Yes, sir.

25 **THE COURT:** You may proceed.

1 BY MR. SELLS:

2 Q. Ms. Green, I want to shift our focus now to the
3 change in the method of electing members of the Board
4 of Education. You were on the board when those changes
5 were discussed between 2010 and 2014, correct?

6 A. Correct.

7 Q. Were there any discussions of changing the method
8 of electing the school board prior to the November 2010
9 election?

10 A. No.

11 Q. I'm sorry. I did not --

12 A. No.

13 Q. -- hear your answer. And in the 2010 election, an
14 African American candidate, Kelvin Pless, defeated a
15 white incumbent for the district three seat on the
16 board, right?

17 A. Right.

18 Q. What was the racial composition of the Board of
19 Education following the 2010 election?

20 A. 5/4, five blacks, four whites.

21 Q. What was the racial composition of the school
22 board just before the 2010 election?

23 A. It was four blacks, five whites.

24 Q. Did the racial composition of the board change in
25 2011 while discussions of changing the method of

1 election were ongoing?

2 A. It did.

3 Q. Can you please explain how it changed?

4 A. Michael Coley -- not Coley, Michael Lewis was
5 appointed to the board, so that gave a six black, three
6 white.

7 Q. Michael Lewis was African American?

8 A. Yes.

9 Q. How soon after the 2010 elections did discussions
10 of changing the method of election begin?

11 A. It was shortly afterward.

12 Q. Who brought up those discussions in 2010?

13 A. The discussion was initiated by Michael Busman.

14 Q. At the time did you support changing from nine
15 single member districts to five single member districts
16 and two at-large seats?

17 A. No.

18 Q. Has anyone ever given you a justification for
19 electing two members of the board at-large?

20 A. No.

21 Q. As you sit here today, in this courtroom, do you
22 know the policy justification for electing two members
23 of the board at-large?

24 A. No, I do not.

25 Q. Do you think the two at-large seats have been good

1 for the people of Sumter County?

2 A. No.

3 Q. Why not?

4 A. Because it kind of gave us a setback. It
5 diminished black representation, which took us back.

6 Q. In your opinion, what was the motivate -- scratch
7 that. Let me start again. In your opinion, what was
8 motivating your fellow board members who supported the
9 change from nine single-member districts to five
10 single-member districts and two at-large seats?

11 A. Again, I would say to diminish black
12 representation on the board.

13 Q. Ms. Green, are you familiar with Kelvin Pless and
14 Michael Coley, Sr.?

15 A. I am.

16 Q. In what capacity and how long have you known those
17 gentlemen?

18 A. I've known them every since I've been in Americus
19 because they both were born in Americus, and they live
20 in Americus. Mike is a permanent elder, a minister.
21 Kelvin is a prominent citizen. I worked with Kelvin at
22 South Georgia Tech, so I know both of them.

23 Q. What is their reputation in and around Sumter
24 County?

25 A. Outstanding citizens in the community.

1 Q. Are you aware that each of them ran for the
2 at-large seats on the Board of Education?

3 A. I am.

4 Q. Do you believe that those men are qualified to
5 hold those positions?

6 A. Yes.

7 Q. Are you familiar with the campaigns they ran for
8 those offices?

9 A. Yes.

10 Q. In your view as an experienced politician
11 yourself, how would you characterize the quality or
12 competency of their campaigns?

13 A. I think they ran very high quality, reputable
14 campaigns.

15 Q. Tell us, if you can remember, what they did.
16 Gives us some examples, please.

17 A. Well, they just campaigned, to me, fairly. I
18 didn't ever hear them criticizing or mudslinging or
19 doing any of that kind of thing, what I contribute to
20 dirty campaigning.

21 Q. To what, if anything, do you attribute their
22 defeats in those elections?

23 A. I must say it is because they were running in an
24 at-large district.

25 Q. Is voting in elections for the at-large district

1 on the Board of Education racially polarized?

2 A. Yes.

3 Q. And what makes you think that?

4 A. Because it's just -- it's just historically the
5 way it is. Blacks vote for blacks and whites basically
6 vote for white.

7 Q. Ms. Green, how long have you been a voter in
8 Sumter County?

9 A. I moved to Sumter County in 1973, so it had to be
10 about 1975. So somewhere along those about -- yeah.

11 Q. So more than 40 years?

12 A. Wait a minute. I have been here since '70. I
13 have been voting ever since I've been here. I voted --
14 I registered, changed my registration two years after I
15 moved here. That's what I'm trying to say.

16 Q. Got you. So you've been a voter in Sumter Counter
17 --

18 A. 40 plus years.

19 Q. -- for a long time. Now, as best you can
20 remember, how many African Americans have been elected
21 to countywide public office in Sumter County over that
22 time?

23 A. None that I'm familiar with, that I know of.

24 Q. Do you know whether African Americans in Sumter
25 County have a depressed socioeconomic status compared

1 to whites in such areas as unemployment, education,
2 income, and poverty?

3 A. I would think so.

4 Q. What makes you think that?

5 A. Well, just looking back over unemployment over the
6 years of what -- just what it is. You just don't see
7 it.

8 Q. In your experience what impact, if any, do these
9 socioeconomic disparities have on black voters' ability
10 to participate in elections in Sumter County?

11 A. That's a big impact.

12 Q. Okay. Explain what you mean.

13 A. Because when you know better, you do better.
14 Education means a lot. When you're educated, then
15 you're going to do better.

16 Q. Ms. Green, do Sumter County and the State of
17 Georgia have a history of discrimination against
18 African Americans?

19 A. Repeat it again. I didn't hear the first part.

20 Q. Do Sumter County and the State of Georgia have a
21 history of discrimination against African Americans?

22 A. I would say so.

23 Q. And that includes a history of discrimination in
24 voting, doesn't it?

25 A. It does.

1 Q. In fact, you have lived through some of that
2 discrimination in your own lifetime, yes?

3 A. I'm sorry, excuse me. I didn't mean to nod my
4 head. Yes, I have. I lived it all my life.

5 Q. Well, based on your life experiences, do you think
6 African American voters in Sumter County have a
7 meaningful opportunity to elect candidates to the
8 at-large seats on the school board?

9 A. No, I do not.

10 MR. SELLS: Your Honor, those are my
11 questions.

12 THE COURT: Is there cross examination?

13 MS. MCKNIGHT: There is, Your Honor.

14 THE COURT: All right. Ms. McKnight.

15 CROSS EXAMINATION

16 BY MS. MCKNIGHT:

17 Q. Good afternoon, Ms. Green.

18 A. Good afternoon.

19 Q. I just have a few questions for you today. But at
20 the outset, just two questions. Are you familiar with
21 the Americus Times Recorder?

22 A. I am.

23 Q. Okay. And that paper reports on meetings of the
24 school board, doesn't it?

25 A. It does.

1 Q. Okay. And I wanted to ask you about the vote of
2 the school board in December 2010 to reduce the size of
3 the school board from nine members to seven members.
4 Now, it's true, isn't it, that in December 2010 you
5 voted for the reduction in the size of the school board
6 from nine-member districts to seven districts?

7 A. I did. Now, do I need to explain that?

8 Q. No. If your counsel would like to go through that
9 on direct, he may.

10 A. Okay. I'll tell you why I voted, but the question
11 was, was I always in favor of it.

12 Q. Okay. Well, now, in June 2010 the board
13 considered downsizing from nine to seven, and you voted
14 against it, didn't you?

15 A. I might be getting it mixed up. There were times
16 I voted no and times just -- the first time I voted
17 yes. So there were times I voted no. So, maybe so.
18 However, the Time Recorder, in my opinion, is not
19 always factual.

20 Q. I understand. So is it -- let me ask you again on
21 this issue, just because I want to make sure the Court
22 is clear on the votes.

23 A. Okay.

24 Q. Isn't it true that in June 2010 the board
25 considered reducing the size of the board from nine to

1 seven, and you vote -- at that time you voted against
2 downsizing?

3 A. As I said earlier, there was a time that I did
4 vote no, so perhaps it was that time. When it comes to
5 dates, whether it was June, I'm not sure, because I did
6 vote no at one time.

7 Q. Now, isn't it right -- I'm trying to understand
8 the reduction in size of the number from nine to seven.
9 And isn't it correct that SACS, the accrediting agency,
10 recommended reducing the size from nine down?

11 A. To my understanding SACS ordered us to follow --
12 at that time we had gotten I think a court order asking
13 us to follow through with that. So SACS, to my
14 knowledge now, I don't remember SACS being the ones to
15 initiate that.

16 Q. But you understood, as a board member, that it was
17 being recommended or that you were somehow being
18 directed to reduce the size of the board from that nine
19 figure; is that right?

20 A. At that time? At that time when you are speaking
21 about when it came from SACS?

22 Q. If your understanding differs in timing, let's go
23 through with the different timing. Did you ever
24 understand that SACS, the accrediting agency, or a
25 court, however your understanding was, either

1 recommended or directed that the school board be
2 reduced from the nine number?

3 A. Again, I don't know whether that was SACS. I
4 think -- I think it came from court, and SACS had
5 written us a letter asking us to follow through, which
6 we were in the stage of trying to do, proceed with.

7 Q. So to summarize, as a board you understood you
8 needed to reduce the size from nine downward; is that
9 fair?

10 A. Uh, when you say that we understood that we needed
11 to reduce it, after we got the -- after we were
12 actually told to do this, when we got the communication
13 from SACS and the court?

14 Q. Yes.

15 A. Yes.

16 Q. And do you know if the state has a policy
17 regarding the optimum number of school board members on
18 a board such as yours?

19 A. I do. I also know that when that -- when they had
20 that policy or that law passed, that we had a -- it was
21 up to us to decide whether we wanted to or not. It was
22 not mandatory.

23 Q. And that state policy, isn't it correct, that that
24 passed Georgia's legislature and was signed by the
25 governor in that 2010 timeframe?

1 A. But we were grandfathered in. We had nine
2 members, and we did not have to do that.

3 Q. I understand and --

4 A. I understand that, yeah.

5 Q. -- and pardon me, yes, I don't mean to cabin you
6 too much, but I will -- Mr. Sells will have time to
7 talk with you after this.

8 A. Okay.

9 Q. I'm just trying to get a real yes or no.

10 A. I knew that there was a law passed, yeah.

11 Q. Okay. And that the law was passed in the 2010
12 timeframe; is that right?

13 A. Yes, uh-huh.

14 Q. Okay. And that law identified as its optimum
15 number for school board members, or members in a board
16 like your school board, no more than seven; isn't that
17 right?

18 A. That's right.

19 Q. Thank you, Ms. Green. I have no further questions
20 now. Thank you.

21 A. You are welcome.

22 THE COURT: Any redirect, Mr. Sells?

23 MR. SELLS: Yes, Your Honor.

24 REDIRECT EXAMINATION

25 BY MR. SELLS:

1 Q. Ms. Green, Ms. McKnight asked you about having
2 voted to reduce the size of the board from nine to
3 seven at one point.

4 A. Uh-huh.

5 Q. Did you ever vote in favor of creating two
6 at-large districts?

7 A. No.

8 Q. Did the board ever vote in favor of adding two
9 at-large districts?

10 A. No.

11 Q. You mentioned the grandfather clause in the state
12 law passed in 2010. Can you explain your understanding
13 of that grandfather clause?

14 A. My understanding is that -- I know the state law
15 was passed, because we go to Georgia School Board
16 Associations every year, and we go to policy workshops.
17 And at the policy workshop, you know, our lawyers tell
18 us what is coming down the pipe and what has passed,
19 and they told us that that law, you know, was passed.
20 And they also explained that for boards that already
21 exceeded seven, it is up to the boards to decide
22 whether you want to reduce. You may keep what you
23 have. So it was not mandatory that we had to reduce
24 those seats.

25 Q. Ms. McKnight asked you about a recommendation from

1 SACS. Tell me what you recall, if anything, about that
2 recommendation.

3 **A.** I do remember getting a letter from SACS, but all
4 of that was hindsight. That was after we had been
5 directed to -- from the state, from the legislature, to
6 reduce the seats and go to seven, that 7/2. That came
7 from the legislature.

8 **Q.** So that was after the Georgia legislature, in
9 early 2011, reduced the size of the board?

10 **A.** Uh-huh, yeah. Yes, because that was when -- yeah,
11 the SACS came after that, yes.

12 **MR. SELLS:** I have no further questions.

13 **THE COURT:** I have a question that I need to
14 get a clarification. Did the board itself vote to
15 adopt a change to seven members from nine? Not
16 respective -- I understand what your position was. But
17 did the board as a majority ever vote to favor changing
18 it from seven -- from nine to seven.

19 **THE WITNESS:** The board voted to change from
20 nine to seven with details to be worked out. To go to
21 seven, but how we get to seven was never voted upon.
22 We voted to move to seven.

23 **THE COURT:** Did the board, at any time, while
24 you were still on the board ever take a different
25 position or challenge the ultimate change from nine to

1 five and two?

2 **THE WITNESS:** When we had our submission
3 withdrawn from the Justice Department, I guess, if
4 that's what you're speaking of.

5 **THE COURT:** Well, I don't know.

6 **THE WITNESS:** All right.

7 **THE COURT:** Was there a submission to the
8 justice department?

9 **THE WITNESS:** Yeah.

10 **THE COURT:** I'm sorry?

11 **THE WITNESS:** Yes, sir.

12 **THE COURT:** And what happened to it?

13 **THE WITNESS:** Oh, we voted to have our
14 preclearance withdrawn.

15 **THE COURT:** The Board did?

16 **THE WITNESS:** The Board did.

17 **THE COURT:** All right. Now, do either of you
18 have any questions based on the Court's questions? I
19 will allow Mr. Sells to ask further questions if he
20 needs to, and likewise, Ms. McKnight, if you do.

21 **MR. SELLS:** Your Honor, based on your
22 questions I would like to introduce additional
23 exhibits. They would be Plaintiff's Exhibit 28, 29,
24 and 30, to start with. There are a few others.

25 **THE COURT:** What are they?

1 **MR. SELLS:** Those are the preclearance
2 submissions, Your Honor.

3 **MS. MCKNIGHT:** And no objection, Your Honor.

4 **THE COURT:** Plaintiff's 28, 29 --

5 **MR. SELLS:** 28, 29, and 30.

6 **THE COURT:** Okay. I understand there's no
7 objection. They are each admitted without objection.

8 **MR. SELLS:** And the plaintiffs would also
9 like to offer Exhibits 266 through 272, which are the
10 local legislation adopted between 1968 and the 2011.

11 **THE COURT:** Wait a minute. Wait a minute.

12 **MR. SELLS:** All right.

13 **THE COURT:** Okay, now. What does 1968
14 legislation have to do with the change of the board
15 from five to -- from nine, to five and seven?

16 **MR. SELLS:** It is, Your Honor, six short
17 exhibits listing every change to the board's
18 composition over that time period.

19 **THE COURT:** All right. Any objection?

20 **MS. MCKNIGHT:** Pardon me, Your Honor. Pardon
21 me, Mr. Sells, could you repeat the Plaintiff's Exhibit
22 number?

23 **MR. SELLS:** Sure. It's 266 and 272.

24 **THE COURT:** As I understand they are all the
25 legislative changes -- is that right, the legislative

1 changes to the composition of the board?

2 **MR. SELLS:** That's correct, Your Honor. And
3 the reason we've offered them as exhibits is primarily
4 for the Court's convenience, because local legislation
5 in Georgia can be difficult to retrieve and find, and
6 we have found it, but having it in the record, I think
7 will put it at the Court's fingertips.

8 **THE COURT:** All right. That's fine.

9 **MS. MCKNIGHT:** Yes, Your Honor. The only
10 objection, and it's not necessarily a hard objection,
11 but how the Court would like to handle legal
12 authorities. It's common practice in lawyering that
13 you cite to legal authority. You do not attach it as
14 an exhibit. An issue here starts to develop in these
15 cases where there is just so much paperwork. This
16 would not deny plaintiffs any right to use these legal
17 authorities or cite them, whether for factual basis or,
18 you know, historical or legal basis. So it's simply an
19 objection that we noted, that if the Court would like
20 to allow these kinds of legal authorities in as
21 exhibits, it would increase the paper load of this
22 case. And, frankly, the alternative, which is to allow
23 plaintiffs to continue to cite to these legal
24 authorities as they need to, that would be, frankly, it
25 seems to us, a more economical route to dealing with

1 this issue.

2 **THE COURT:** Well, of course. I guess if
3 there -- it's a public record if it's a legislative
4 act. I assume that's what you are talking about,
5 legislative acts?

6 **MR. SELLS:** Yes, Your Honor. It's local
7 legislation passed by the general assembly. Not every
8 state has local legislation, and it's not available on
9 West Law, so it may be available on Lexus, and I don't
10 know if the Court has access to Lexus. But in my
11 experience it can be hard to find, and we have made the
12 effort of finding it, and so we think there's a basis.
13 We're talking a handful of pages.

14 **THE COURT:** I think it's better, since we're
15 talking about a limited number, but when you said 1968,
16 I guess, that it was done every year, so I was thinking
17 there was going to be a string of them. But I don't
18 know that that's unusual since we may apparently get
19 into discussions about what was at the behest of board
20 and what was at the behest of the legislature or both.
21 So if that's the only objection, the Court will allow
22 it over objection.

23 **MS. MCKNIGHT:** Thank you, Your Honor.

24 **THE COURT:** Okay. That's 266 through 272,
25 inclusive. All right.

1 **MR. SELLS:** Yes, Your Honor. Thank you. And
2 I don't have any further questions.

3 **THE COURT:** Ms. McKnight, do you have any
4 further questions either in recross or based on the
5 questions that the Court asked?

6 **MS. MCKNIGHT:** I do. Thank you, Your Honor I
7 do, briefly.

8 **THE COURT:** In fairness to each side.

9 **RECROSS EXAMINATION**

10 **BY MS. MCKNIGHT:**

11 **Q.** Ms. Green, just a few questions for you to
12 crystalize, I think, what your testimony has been
13 today. That, as a board, in December 2010, with -- as
14 a board of nine members in December 2010, you voted
15 unanimously, including your own vote, to reduce the
16 school board size from nine to seven, correct?

17 **A.** Correct.

18 **Q.** Okay. Then one other fact that the Court raised
19 was where the Court asked a question and you raised in
20 your response was this issue of withdrawing the
21 preclearance submissions. I'd like to ask you about
22 the vote to withdraw the preclearance submission. Does
23 it sound right to you that that vote was made in around
24 January 2012?

25 **A.** Sounds like it. So, the vote taken -- I'm

1 thinking six to three to withdraw the preclearance.

2 **Q.** Would it sound right to you if there were five
3 votes in favor, including Mr. Lewis, Mr. Pless, Ms.
4 Fitzpatrick, Ms. Edith Green and Ms. Alice Green, and
5 four were opposed, Ms. Krenson, Dr. Busman, Ms.
6 Whitehead and Mr. Mock?

7 **A.** Maybe so. I said maybe nine-three, but I was not
8 exact. I told you I wasn't sure.

9 **Q.** I understand. So does it sound right to you that
10 the vote could have been five to four, along those
11 lines?

12 **A.** Might have been, I know, but the majority to
13 withdraw the preclearance was -- we had the majority
14 vote to withdraw it, but the exact -- I thought I was
15 remembering six-three, but I could possibly be wrong.

16 **MS. MCKNIGHT:** Thank you, Ms. Green. No
17 further questions.

18 **THE COURT:** Any further questions from the
19 plaintiff?

20 **MR. SELLS:** No, Your Honor.

21 **THE COURT:** All right. Is there any reason
22 this witness cannot be excused, likewise?

23 **MR. SELLS:** No.

24 **MS. MCKNIGHT:** No, Your Honor.

25 **THE COURT:** All right. Ma'am, you may leave

1 if you wish, you are excused, or remain if you wish,
2 whatever your pleasure.

3 **THE WITNESS:** Thank you.

4 **THE COURT:** You may call your next witness.

5 **MR. SELLS:** Your Honor, the plaintiffs call
6 Ms. Edith Green.

7 **COURTROOM DEPUTY:** Do you solemnly swear or
8 affirm that the testimony you are about to give in the
9 case now before the Court will be the truth, the whole
10 truth, and nothing but the truth?

11 **THE WITNESS:** I do.

12 **THE COURT:** All right. You may proceed.

13 **MR. SELLS:** Thank you, Your Honor.

14 **EDITH GREEN**

15 **Witness, having first been duly sworn, testified on**

16 **DIRECT EXAMINATION**

17 **BY MR. SELLS:**

18 **Q.** Good afternoon, Ms. Green.

19 **A.** Good afternoon.

20 **Q.** Would you please state your full name for the
21 record?

22 **A.** Edith Ann Green.

23 **Q.** And in what city do you live, Ms. Green?

24 **A.** Americus.

25 **Q.** What do you do for a living?

1 A. I'm retired.

2 Q. And, Ms. Green, you are a current member of the
3 Sumter County Board of Education from district five,
4 right?

5 A. Yes, I am.

6 Q. Before we get into your service on the board, I
7 want to find out a little bit about your background.
8 When and where were you born?

9 A. Americus, 1947.

10 Q. Did you grow up in Americus?

11 A. I did.

12 Q. Where did you go to school?

13 A. I went to school in Americus, excuse me, and I
14 went to college in Americus at Georgia Southwestern.

15 Q. When you attended schools in -- before college,
16 were the schools integrated when you attended?

17 A. No.

18 Q. Did you graduate from high school in Sumter
19 County?

20 A. I did graduate, in Webster County.

21 Q. Why Webster County?

22 A. Because I became a mother and a wife, and I went
23 to Webster County to finish school.

24 Q. Okay. What year did you graduate?

25 A. 1965.

1 Q. What did you do after graduating high school?

2 A. I attended Southwestern. The year might have been
3 1966 that I graduated.

4 Q. Was Georgia Southwestern integrated when you
5 attended?

6 A. No.

7 Q. Well, how did you attend?

8 A. Well, except for me and three other people, about
9 four of us blacks attended Southwestern.

10 Q. So you integrated Georgia Southwestern?

11 A. Yes.

12 Q. What was it like to be a pioneer?

13 A. Well, I was ignored a lot, but I learned. I
14 learned, and that was what was important to me. I
15 wanted to learn, and I wanted to graduate. So I was
16 able to do that.

17 Q. So you earned a college degree in what year?

18 A. 1970.

19 Q. Do you have any other degrees?

20 A. I also have a master's degree from Southwestern as
21 well that I earned in 1974.

22 Q. In what field?

23 A. Business education.

24 Q. Let me ask you a few questions about your
25 employment history. What was your first job out of

1 college?

2 A. Stewart County High School in Lumpkin -- not
3 Stewart County, I'm sorry. Lumpkin High School in
4 Lumpkin, Georgia.

5 Q. And what did you teach there?

6 A. Business education.

7 Q. And when did you start at Lumpkin County High
8 School?

9 A. I started in 1970, in January of 1970. This was
10 before I actually graduated Southwestern, but I had
11 finished all of my requirements. So in January of '70,
12 I went to work at Lumpkin High School, and I worked
13 there until June.

14 Q. Was Lumpkin High School integrated when you taught
15 there?

16 A. No.

17 Q. And did you teach then at the white school or a
18 black school?

19 A. A black school.

20 Q. For those of us who aren't familiar with Georgia's
21 geography, where is Lumpkin High School relative to
22 Sumter County?

23 A. It's west of Sumter.

24 Q. In which county?

25 A. Stewart County.

1 Q. Where did you work next?

2 A. Next, I worked in the Sumter County School System
3 at Central Junior High School. That was my next job.

4 Q. And when was that?

5 A. In '70. I started there in the fall of 1970.

6 Q. And was Central Junior High School integrated when
7 you worked there?

8 A. It was.

9 Q. How long did you work there?

10 A. For two years.

11 Q. And after that?

12 A. Americus High School, and I taught business
13 education there. It too was integrated.

14 Q. And how long did you teach at Americus High
15 School?

16 A. Until 1987.

17 Q. You said when you went -- when you started working
18 at Americus High School, it was integrated?

19 A. It was.

20 Q. Did you have very many white students in your
21 class?

22 A. Not a lot. A lot of the white students had left
23 the system for private schools or other schools, I
24 guess, in surrounding counties.

25 Q. And this was in what year?

1 A. '72. There were quite a few there, but not a lot.

2 Q. So when you started teaching at Americus High
3 School, it was already predominantly African American?

4 A. Not predominately -- well, I guess, yes. Yes.

5 Q. You worked at Americus High School until 1987.
6 Where did you work after that?

7 A. South Georgia Technical College.

8 Q. From when to when?

9 A. From '87 until I retired in 2004. And then after
10 that, I went back in the evenings.

11 Q. To teach it -- to teach in the evenings.

12 A. To teach in the evening. I taught business
13 education.

14 Q. But you're retired now?

15 A. I am.

16 Q. So is it fair to say that with the exception of
17 your time working at Lumpkin High School in Stewart
18 County that you have lived and worked in Sumter County
19 for your entire life?

20 A. I have.

21 Q. Do you attend church in Sumter County?

22 A. Yes.

23 Q. Which church?

24 A. Big Bethel Baptist Church.

25 Q. How long have you attended Big Bethel?

1 A. Uh, if I can remember, maybe 65 years.

2 Q. Approximately how many members does your church
3 have?

4 A. Approximately a hundred who come regularly.

5 Q. And approximately what percentage of those members
6 are African American?

7 A. A hundred percent.

8 Q. Okay. I want to turn now to your service on the
9 board. How long have you been on the Board of
10 Education?

11 A. Now, I've served on two Boards of Education.
12 Early '90s, I was appointed to the Americus City Board
13 of Education by the Americus City Council and Mayor at
14 that time, and I served there until we merged systems
15 in 19 -- I can't remember dates too well, but when the
16 systems merged, I was serving on Americus City Board.

17 Q. Was it mid-nineties?

18 A. Yes.

19 Q. Okay.

20 A. And then I was elected for one year for the
21 Americus City Board because the law changed. You
22 couldn't be appointed anymore. And then I was elected
23 to the Sumter County Board after the merger.

24 Q. And have you served on the Sumter County Board of
25 Education since that time in the mid-nineties?

1 A. I have. I have.

2 Q. So that's more than 20 years, right?

3 A. Right.

4 Q. Why did you decide to serve, first on the Americus
5 Board, and then on the Sumter County Board of
6 Education?

7 A. I wanted to serve my community. I've always
8 wanted to be a servant in my community. My mother
9 helped influenced that. My teachers influenced it, and
10 that was something I wanted to do. I wanted to serve
11 the children. When I was given an opportunity, I, of
12 course, jumped at it.

13 Q. Have you always represented a district in which
14 African Americans make up a majority of the population?

15 A. I have.

16 Q. And if I've done my math right, you've run for
17 election at least five times over the course of your
18 career on the Board of Education, right?

19 A. I'm sure -- yes, yes.

20 Q. Well, tell us about your campaigns. What do you
21 do to campaign for Board of Education?

22 A. I guess the most important thing I can do is knock
23 on doors, and I try to educate people as to what's
24 going on, and ask them, of course, to vote for me. And
25 I talk to people. I attend any event that's for my --

1 you know, for candidates.

2 Q. Okay. Anything else you can think of?

3 A. Well, I knock on plenty of doors.

4 Q. Okay.

5 A. I have to do that. So I walk a lot in the streets
6 to inform people and to solicit their support.

7 Q. Are you planning to run for reelection when your
8 current term is up?

9 A. I really haven't decided yet. I'm still thinking
10 about that.

11 Q. Let me ask you a few questions about the Sumter
12 County schools. What is the approximate racial makeup
13 of the students who attend Sumter County schools?

14 A. More than 75 percent black.

15 Q. Is that higher than the black share of the
16 county's population?

17 A. Yes.

18 Q. And why is that?

19 A. Because of private schools and schools in
20 surrounding counties that white students attend.

21 Q. And that's the same reason why you had few white
22 students in your class when you came to work for Sumter
23 County schools back in the '70s, right?

24 A. Right.

25 Q. That white flight never went away?

1 A. It never went away.

2 Q. Are you aware that Sumter County schools were part
3 of a large desegregation lawsuit brought by the United
4 States against the State of Georgia in the late 1960s?

5 A. I am.

6 Q. And do you know whether the federal court has
7 entered an order declaring that Sumter County schools
8 have achieved unitary or fully desegregated status?

9 A. No, I'm not aware of any of that.

10 Q. I want to shift our focus to the change in the
11 method of electing members of the board. You were on
12 the board when those changes took place between 2010 an
13 2014, right?

14 A. Correct.

15 Q. Were there any discussions of changing the method
16 of electing the school board before the November, 2010
17 election?

18 A. No, not that I can recall.

19 Q. And in the 2010 election, an African American
20 candidate, Kelvin Pless, defeated a white incumbent for
21 the district three seat on the board, right?

22 A. Correct.

23 Q. Now, what was the racial makeup of the board
24 before Kelvin Pless was elected?

25 A. Before Kelvin, there were four blacks and five

1 whites. After Kelvin -- you asked for before.

2 Q. Oh --

3 A. But, you know, after Kelvin, then it changed.

4 Q. So what was it before Kelvin?

5 A. Before Kelvin, four blacks, five whites.

6 Q. And after Kelvin, it was what?

7 A. Five blacks and four whites.

8 Q. And did the racial composition of the board change
9 in 2011 while discussions of changing the method of
10 election were taking place?

11 A. I believe so. I can't remember the years, but I
12 -- I think I know who you're talking about, yes.

13 Q. Okay. Who do you think I'm talking about?

14 A. Lewis, when Lewis came on.

15 Q. That would be Michael Lewis?

16 A. Right.

17 Q. Is Mr. Lewis African American or white?

18 A. He's African American.

19 Q. And how did he get on the board?

20 A. He was appointed.

21 Q. By whom?

22 A. By the board.

23 Q. And after he came on the board, what was the
24 racial makeup of the board?

25 **THE COURT:** I'm sorry. Who appointed him?

1 **MR. SELLS:** The board.

2 **THE COURT:** The board?

3 **THE WITNESS:** The board, because someone who
4 was elected resigned.

5 **THE COURT:** And the board itself named
6 someone?

7 **THE WITNESS:** Uh-huh, right.

8 **THE COURT:** All right. I just wanted to be
9 sure I understood that.

10 **BY MR. SELLS:**

11 **Q.** And to ask one further follow-up question,
12 Ms. Green, that was the board whose makeup was five
13 African American and four white members, right?

14 **A.** Correct.

15 **Q.** And it was one of the white members who had
16 resigned?

17 **A.** Correct.

18 **Q.** How soon after the 2010 election did discussions
19 of changing the method of election begin?

20 **A.** I'm not sure how soon after. I'm not sure how
21 soon after, but it couldn't have been very long.

22 **Q.** Were any members of the board in particular
23 advocating for the change?

24 **A.** Yes.

25 **Q.** Which ones?

1 A. The white board members were advocating.

2 Q. At the time did you support changing from nine
3 single member districts to five single member districts
4 with two at-large seats?

5 A. No, I didn't support that. I was fine with
6 changing to seven, the seven didn't bother me, but the
7 at-large seats I thought should not have been. That
8 distinction, the at-large, really set our community
9 back, I'd say 15 years. That was something that should
10 not have been done.

11 Q. Why do you say that?

12 A. Well, first, because in all the history of Sumter
13 County, in all the years I've been there, there has
14 never been an at-large seat won by a black person. And
15 we've had three -- well, two elections when there were
16 three seats up for election, and neither of those even
17 came close to winning an at-large. And the history
18 continues. Now, I've known several people run for
19 at-large seats in Sumter County who were black, and not
20 one, not one, has come close to winning an at-large
21 seat.

22 Q. Who do you have in mind?

23 A. Well, I know, years ago, I can't tell you what
24 year, Mary Kate Fish Bell ran, and I think at time for
25 the justice of the peace, Nelson Brown, Mr. Houston ran

1 for sheriff, and there have been ones that I may not
2 even think about now, but who have run, but never in
3 the history of Sumter County has a black won an
4 at-large seat in an election, in a general election.

5 Q. Has anyone ever given you a justification for
6 electing two members of the board at-large?

7 A. No.

8 Q. As you sit here today, do you know the policy
9 justification for electing two members of the board
10 at-large?

11 A. No, I don't.

12 Q. Has anyone ever given you a justification for
13 moving the school board election from November to May?

14 A. No.

15 Q. As you sit here today, do you know the policy
16 justification for moving the school board election from
17 November to May?

18 A. No.

19 Q. And hadn't it always been in November?

20 A. It had been.

21 Q. Do you think that the two at-large seats and
22 moving the election from November to May have been good
23 for the people of Sumter County?

24 A. Well, no, I don't. But I think the at-large seats
25 are not good for the people of Sumter County anyway,

1 but to move it -- and people are not educated about
2 that May election, especially when they vote in
3 November during an election year. They don't
4 understand what's going on then in May, and that makes
5 it very hard.

6 Q. Ms. Green, are you familiar with Kelvin Pless and
7 Michael Coley, Sr.?

8 A. I am.

9 Q. In what capacity and how long have you known them?

10 A. I've known them quite a number of years. They are
11 good people, very good people. Michael served on the
12 Board of Education for a while, and, of course, Kelvin
13 did too, but even before then I knew both of them.

14 Q. What is their reputation in and around Sumter
15 County?

16 A. They have a good reputation.

17 Q. Are you aware that each of them ran for the
18 at-large seats on the Board of Education?

19 A. Yes, I am.

20 Q. And are you familiar with their campaigns for
21 those offices?

22 A. Yes.

23 Q. In your view as an experienced politician
24 yourself, how would you characterize the quality of
25 their campaigning?

1 A. I think they ran a good campaign.

2 Q. And then, what do you mean by that?

3 A. I think they did things that they should have done
4 to send in some votes from the community.

5 Q. Things that you, yourself have done?

6 A. Things I have done.

7 Q. Can you recall any other efforts that they engaged
8 in in their campaigns?

9 A. I know that they made some -- made new signs and
10 things of that nature.

11 Q. To what, if anything, do you attribute the fact
12 that they lost?

13 A. I attribute the fact that they lost --

14 Q. Why do you think they lost?

15 A. I think they lost because people did not
16 understand the process and the voting for that, and
17 I -- I think that -- well, I know that a lot of black
18 people may have been confused about the voting and did
19 not get out to do what they could do, but so many times
20 people just don't understand because of when it's
21 taking place, as I said, and also because of the
22 confusion surrounding what was going on.

23 Q. Ms. Green, do you think voting in elections for
24 the at-large seats on the board of education is
25 racially polarized?

1 A. Yes, I do.

2 Q. And how do you know that?

3 A. Because when you look at the votes, you can see
4 that the blacks vote for the blacks, the whites vote
5 for the whites. And I think we're not voting for the
6 candidate as such, but just voting because of race. So
7 when that happens, if you have more whites voting than
8 blacks, because for whatever reason, and it's always
9 something, criminal record or something that's going on
10 with the black -- with black voters. But we're always
11 coming short.

12 Q. I want to follow up on that last point you
13 mentioned that there are black voters in Sumter County
14 who have criminal records.

15 A. In every county.

16 Q. Unfortunately, yes. And in Georgia that means
17 that means they can't vote, right?

18 A. Well, now you can, some of them can, but the
19 problem is a lot of them don't know it.

20 Q. And have you seen that issue be a problem in
21 Sumter County?

22 A. I have.

23 Q. Ms. Green, how long have you been a voter in
24 Sumter County?

25 A. Probably since I was old enough to vote, since I

1 was -- that's been a long time, a very long time. But
2 I know that as soon as I was old enough to vote, I
3 registered to vote. I remember.

4 Q. Do you know whether African Americans in Sumter
5 County have a depressed socioeconomic status in
6 unemployment or education, per capita income or
7 poverty, those kinds of indicators?

8 A. Yes.

9 Q. And what makes you think that?

10 A. I think so because there's hardly any place to
11 work, and a lot of the businesses are owned by --
12 they're kind of like mom and pop businesses. There's
13 not a lot of industry in Sumter County. We have good
14 educational opportunities, but it's still not a lot of
15 industry. There is a lot of -- not much economical
16 growth.

17 Q. How do those socioeconomic disparities affect
18 black voters' ability to participate in elections?

19 A. Well, you know, they're uneducated, that's one
20 thing. And another thing, in our previous elections
21 there was so much confusion around these districts and
22 so forth until a lot of blacks just didn't know what to
23 do. So that's where the education comes in. But we
24 have to knock on doors and, you know, try to get as
25 many as we can to vote. And that's not an easy task,

1 not at all. We can't just put out signs and say vote
2 for me, and people will vote.

3 **Q.** You got to knock on doors to do it?

4 **A.** You have to. We have to. We have to. We have to
5 really get out there.

6 **THE COURT:** All right. I think we are at the
7 time for our afternoon break. We will be in recess for
8 about 20 minutes, and then we'll resume with direct.

9 *(RECONVENED; ALL PARTIES PRESENT, 3:28 p.m.)*

10 **THE COURT:** All right. You may continue,
11 Mr. Sells.

12 **MR. SELLS:** Thank you, Your Honor.

13 **BY MR. SELLS:**

14 **Q.** Ms. Green, I want to ask you if you are aware that
15 in the 2010 timeframe, the Georgia General -- scratch
16 that. In the timeframe of when the Sumter County Board
17 of Education was considering its change from nine to
18 seven, that the Georgia General Assembly passed a law
19 indicating a preference for school boards with seven
20 members on them. Are you aware of that?

21 **A.** I don't understand what you mean about a
22 preference. I'm aware on the change in the law, yes.

23 **Q.** If we could, I'd like to show you a Georgia
24 Session Law. This is not an exhibit. It's not into
25 evidence. But this was codified in Section 20-2-52.1

1 of the Georgia Code, and this is from the 2011 Session
2 Laws. And do you see in the middle, beginning with the
3 word such?

4 A. Uh-huh.

5 Q. Can you read that sentence for me that has been
6 highlighted in front of you?

7 A. Such county boards of education shall consist of
8 seven members elected from single-member districts of
9 approximately equal population.

10 Q. Are you aware of any law passed by the Georgia
11 General Assembly expressing a general preference for
12 at-large seats?

13 A. No, I'm not.

14 Q. Thank you. Ms. Green, before I ask you just a few
15 concluding questions, is there anything else that you
16 think Judge Sands should know as he considers whether
17 the at-large school board seats dilute the black voting
18 strength of voters in -- I messed that question all up.
19 Let me start again. Before I ask you a few concluding
20 questions, is there anything else that you think Judge
21 Sands should know as he considers whether the at-large
22 seats on the school board dilute black voting strength
23 in Sumter County?

24 A. I think the Judge should know that the people of
25 Sumter County, the school board in particular, I'm

1 saying the school board in particular, was not for
2 at-large seats. And I think he should know that the
3 people of Sumter County, especially the black
4 population, do not fully understand and do not
5 understand the impact of these at-large districts. We
6 were not for at-large districts because we knew from
7 the history of Sumter County that black people cannot
8 win those seats. And we also knew, and we're aware of
9 the law from 2013 that said that they should be single
10 member districts, and I read that on the screen there.
11 They should be single member districts according to the
12 law of Georgia.

13 **MR. SELLS:** I have no further questions, Your
14 Honor.

15 **THE COURT:** All right. Cross examination,
16 Ms. McKnight?

17 **CROSS EXAMINATION**

18 **BY MS. MCKNIGHT:**

19 **Q.** Good afternoon, Ms. Green.

20 **A.** Good afternoon.

21 **Q.** It's not often I get to ask questions of two
22 sisters in a row in a courtroom. So it's a pleasure to
23 meet you.

24 **A.** Thank you, but you know we are sisters-in-law.

25 **Q.** Oh, I understood --

1 A. But we are sisters. I'm from a family where we
2 are sisters-in-law, but we are sisters.

3 Q. You are sisters, great. Now, I'll just have a few
4 questions for you about the testimony you just provided
5 Mr. Sells. Now, to ask you questions about the voting
6 performance of different districts in Sumter County,
7 would it be your testimony that when whites outnumber
8 blacks in a district in Sumter County, that blacks do
9 not have an opportunity to be elected?

10 A. Would you repeat that question?

11 Q. Sure. Would it be your testimony that when whites
12 outnumber blacks, when there are more whites than
13 blacks in a district in Sumter County, that blacks do
14 not have an opportunity to be elected?

15 A. Now, the term opportunity might mean something
16 different to each of us. I would say that blacks are
17 not likely to be elected, and that has been proven, if
18 they're in a district. Are you talking about in a
19 district or an at-large?

20 Q. Well, in -- the question asked was in a district.

21 A. Okay. In a district.

22 Q. And would it be fair to say that the inverse is
23 also true, meaning that if blacks outnumber whites in a
24 district, blacks would have that opportunity to be
25 elected?

1 A. Yes, I would say that's fair. But when you look
2 at it, you have to look at the proportions and the
3 percentages. If it's just a few, maybe not, but you
4 have to look at more than just who's there.

5 Q. Thank you. Now, I heard your testimony earlier
6 with Mr. Sells that it was your recollection that the
7 Board of Education did not discuss reducing its size
8 from nine to seven at any time prior to November 2010.
9 Did I understand that correctly?

10 A. I believe so. I don't remember the dates, but I
11 believe that's correct.

12 Q. Now, if there were board meeting minutes from the
13 Board of Education, Sumter County, showing that on
14 June 17, 2010, the board voted for a reduction in the
15 size of the board to five or seven to align with the
16 county commission districts, but those minutes also
17 show you were absent from that meeting, is it fair to
18 say you couldn't testify about what was discussed at
19 that meeting?

20 A. You said prior to 2010, did you not?

21 Q. November of 2010.

22 A. But did you say before? Your previous question
23 that you said was before 2010?

24 Q. My previous question I asked whether there were
25 discussions prior to November --

1 **A.** 2010.

2 **Q.** -- November 2010. Because as I understood that
3 was Mr. Sells question to you or that was your response
4 to him. So let's take a minute. There may -- I had
5 understood your testimony to Mr. Sells that you do not
6 recall any discussion on the school board about
7 reducing the size of the board from nine to seven at
8 any time prior to November 2010. Is that right?

9 **A.** That's correct, then.

10 **Q.** Okay.

11 **A.** I did attend -- I was not at the meeting, the
12 initial meeting, when they talked about it first. I
13 was not there. There had been no discussion before
14 then that I can recall.

15 **Q.** And, now, Ms. Green, I understand memory can be
16 fickle, so pardon this question. I just want to
17 understand what your testimony is today. If there's
18 also a newspaper article dated October 2nd, 2010,
19 reporting --

20 **MR. SELLS:** Your Honor, I'm going to object.
21 I think this line -- this form of questioning is
22 improper, describing documents that are not in
23 evidence, are not going to be in evidence, and she's --
24 the attorney is testifying here.

25 **THE COURT:** Well, I think she's on cross

1 examination, for one thing, so the leading is not
2 improper. But it may be unfair to the witness just to
3 suggest a document that's not observable by the
4 witness. The witness might want to see it, for all I
5 know.

6 **MS. MCKNIGHT:** I understand, Your Honor.

7 **THE COURT:** But as far as that being a
8 subject of cross examination, that's fine. The
9 objection is overruled.

10 **MS. MCKNIGHT:** Okay. And if you don't mind,
11 I'll just break it up into a few questions. I
12 understand that the objection is overruled; is that
13 right, Your Honor?

14 **THE COURT:** Yes.

15 **MS. MCKNIGHT:** Okay. Then I'll break it up
16 in a few questions, and we can proceed.

17 **BY MS. MCKNIGHT:**

18 **Q.** So, Ms. Green, if there was an article dated
19 October 2nd, 2010, and it reports --

20 **THE COURT:** Well, I don't think that's a fair
21 question. That's a hypothetical, if there was. I
22 think you can suggest that there was, and if she's
23 familiar with it, and whether she --

24 **MS. MCKNIGHT:** Okay. I can take it a
25 different way.

1 **THE COURT:** -- because that may --

2 **MS. MCKNIGHT:** I was trying to be -- sure.

3 **THE COURT:** -- maybe it will refresh her
4 memory in effect.

5 **MS. MCKNIGHT:** Okay.

6 **THE COURT:** I don't think it's fair just to
7 hypothesize --

8 **MS. MCKNIGHT:** Okay, fair enough.

9 **THE COURT:** -- about something that could be
10 a fact or not.

11 **BY MS. MCKNIGHT:**

12 **Q.** Do you remember that in October, early October
13 2010, the Board of Education discussed downsizing, and
14 you attended that meeting?

15 **A.** I don't remember.

16 **Q.** Okay. Would it refresh your recollection to see a
17 newspaper record of that meeting?

18 **A.** It might.

19 **MS. MCKNIGHT:** Your Honor, I would like to
20 put this up on Elmo. I think it's the most useful way.

21 **THE COURT:** That will be fine.

22 **BY MS. MCKNIGHT:**

23 **Q.** I'll show you the full first page, and then I can
24 zoom in as you need.

25 **THE COURT:** Ms. McKnight, if you would pull

1 that mic around towards you.

2 **MS. MCKNIGHT:** Sure.

3 **BY MS. MCKNIGHT:**

4 **Q.** Now, Ms. Green, I'll represent to you as it is
5 shown on this document that this is an article from the
6 Americus Times Recorder, Americus, Georgia, dated
7 October 2nd, 2010. I'm going to move the document up
8 so you can see the web page source for it, that it's
9 pulled from the Internet. As you can see this article
10 states: BOE discusses its downsize. Do you see that?

11 **A.** Yeah, I see it.

12 **Q.** Now, on page two of this article, I see your name
13 here as being in attendance and saying you're not ready
14 or needed more details.

15 **A.** Uh-huh.

16 **Q.** Is that a fair reading of the page?

17 **A.** I guess so.

18 **Q.** Okay. Now, seeing this --

19 **THE COURT:** Just a minute.

20 **MR. SELLS:** Your Honor, I think the first
21 page said Edith Green was not in attendance.

22 **THE WITNESS:** Let's see, in November.

23 **THE COURT:** Well, the only purpose is, if the
24 -- the witness should be allowed to read this --

25 **MS. MCKNIGHT:** I can take it more slowly,

1 because he misread the page, so I can take it more
2 slowly if he needs to.

3 **THE COURT:** Well, that's what I'm saying. I
4 don't want to get into whether you -- which of your
5 characterizations are correct.

6 **MS. MCKNIGHT:** I understand.

7 **THE COURT:** I think the witness can read this
8 document, and the question is does that refresh her
9 recollection. It may or may not, and then you may ask
10 her a question. I think that's -- let us know when you
11 have an opportunity to complete your reading.

12 **THE WITNESS:** I need my glasses, Your Honor.

13 **THE COURT:** Do you have them?

14 **THE WITNESS:** They're in my purse.

15 **MS. MCKNIGHT:** Would it be easier for you,
16 Ms. Green for me to bring you the document? Would that
17 be easier?

18 **THE WITNESS:** That would be worse. If I can
19 get my purse, I can get them from my purse.

20 **THE COURT:** She says she can get her purse.

21 **MS. MCKNIGHT:** She can get -- okay,
22 whichever.

23 **THE COURT:** I'll allow her to do so, yes.

24 **MS. MCKNIGHT:** Okay. Pardon me.

25 **THE COURT:** There would have been a time I

1 would not have understood that request, but I do. It
2 might also work better if she has a hard copy to look
3 at. That may be easier for her to look at.

4 **MS. MCKNIGHT:** I'm sorry, Your Honor, I
5 believe I only have this one copy.

6 **THE COURT:** I mean, you can retrieve it once
7 she's looked at it.

8 **MS. MCKNIGHT:** Okay. Oh, sure. Is it okay
9 for me to approach and give this to her?

10 **THE COURT:** Yeah, sure, sure. She's going to
11 let you use her copy to look at first, and then you can
12 give that back to her.

13 *(Pause)*

14 **MS. MCKNIGHT:** Your Honor, would you like me
15 to display it for the Court, or may I just ask Ms.
16 Green a few more questions about it?

17 **THE COURT:** You can ask her about it. I
18 think it only becomes relevant if it assists her in her
19 recollection, as far as that, but I don't need to see
20 at this point.

21 **MS. MCKNIGHT:** I understand. Okay.

22 **BY MS. MCKNIGHT:**

23 **Q.** Now, Ms. Green, does that -- does reading that
24 newspaper article refresh your recollection about a
25 discussion by the Board of Education in and around

1 early October 2010 regarding downsizing?

2 A. Yes.

3 Q. Does it refresh your recollection that indeed on
4 or around October 2nd, 2010, the Board of Education
5 discussed downsizing?

6 A. Yes.

7 Q. And you attended that meeting, right?

8 A. In October?

9 Q. 2010.

10 A. Uh-huh, but not prior to 2010. And that's what I
11 understood your original question to be, prior to 2010,
12 there was no discussion that I can recall.

13 Q. I understand. Okay. Thank you.

14 A. And I don't remember the dates, but --

15 Q. Okay. And, now, ultimately there was a vote in
16 December 2010 regarding downsizing, and I understand
17 that vote was unanimous. Do you remember casting a
18 vote?

19 A. To downsize --

20 Q. To downsize.

21 A. -- to seven members, yes.

22 Q. Okay. Thank you, Ms. Green. I have no further
23 questions.

24 A. -- at-large.

25 THE COURT: All right. Did you get your copy

1 back?

2 **MS. MCKNIGHT:** Yeah. If you don't mind.

3 **THE COURT:** We don't want to lose your
4 documents. All right. Is there any redirect, Mr.
5 Sells?

6 **MR. SELLS:** May I have just a moment to
7 confer, Your Honor?

8 **THE COURT:** Sure.

9 **MR. SELLS:** No redirect, Your Honor.

10 **THE COURT:** All right. Is there any reason
11 this witness cannot be excused?

12 **MR. SELLS:** This witness may be excused.

13 **THE COURT:** All right. For the defendants,
14 any objection?

15 **MS. MCKNIGHT:** Wait. Your Honor, pardon me.
16 I neglected to ask a question. I'd ask leave of Court
17 to ask another question on cross and allow plaintiffs
18 an opportunity to redirect if they need to.

19 **THE COURT:** If it's cross, I'll allow it.
20 You may do so.

21 **BY MS. MCKNIGHT:**

22 **Q.** Ms. Green, pardon me, but one more question about
23 this article. Did it also refresh your recollection
24 that there were discussions prior to November 2010 that
25 the school board would decrease in size and would have

1 the same five districts with two countywide at-large
2 seats?

3 **MR. SELLS:** Objection. In order to refresh,
4 you have to establish that she doesn't remember
5 something, and she hasn't done that yet.

6 **MS. MCKNIGHT:** I can take it in two parts.

7 **THE COURT:** All right.

8 **BY MS. MCKNIGHT:**

9 **Q.** Do you remember that in the October 2nd, 2010,
10 meeting the board discussed reducing in size from nine
11 to seven with five single member districts and two
12 at-large districts?

13 **A.** Yes. But also in that same article I said that I
14 needed more details and more information. I was not in
15 agreement with the two at-large districts. I don't
16 know if any of the board members, except those
17 presenting it, were in favor of the two at-large
18 districts. Those two at-large districts, we knew that
19 no black voter -- no black person, could win in Sumter
20 County. That was already established. We knew that
21 from the history of Sumter County. In that same
22 article, and I must tell you, under oath, that I don't
23 rely very much on the Americus Times Recorder. But in
24 that same article, and my name is mentioned there as
25 needing more details. I had questions. Most of us had

1 questions. But the important thing here is that this
2 took place without the Board of Education agreeing to
3 it. We never voted to have five districts and two
4 at-large. It may have been discussed. It was also
5 discussed seven single member districts. There were a
6 lot of things discussed, but nothing was ever,
7 according to the Board of Education, really decided on.
8 And then, in retreat, and in retreat there was no vote
9 taken. That was for discussion. There was no vote
10 taken.

11 Q. Thank you. I do appreciate that. And is it your
12 testimony that that vote in December 2010 that you
13 voted for, that you made, did not contemplate two
14 at-large districts?

15 A. It did not. And what we really were voting for,
16 we thought, was to look into it. But as it turned out,
17 it was something different. We voted, and the motion
18 was to look into it, but when we came back later and
19 saw what was written, it was not the same as what we
20 thought we were voting for.

21 Q. Thank you very much.

22 A. And we never looked into it. Someone else did
23 that, and as a board, we did not plan this legislation.

24 Q. Thanks for your time, Ms. Green.

25 A. Thank you.

1 **THE COURT:** All right. Any further redirect
2 based on the allowed cross?

3 **MR. SELLS:** No, Your Honor.

4 **THE COURT:** All right. Now, is it all right
5 that the witness be excused at this point?

6 **MS. MCKNIGHT:** Yes, Your Honor. Thank you.

7 **THE COURT:** Thank you. You are excused. You
8 may leave if you wish or remain, whatever your choice.
9 You may call your next witness.

10 **MR. MCDONALD:** Mathis Wright, Your Honor.

11 **COURTROOM DEPUTY:** Do you solemnly swear or
12 affirm that the testimony you are about to give in the
13 case now before the Court will be the truth, the whole
14 truth, and nothing but the truth?

15 **THE WITNESS:** Yes, ma'am.

16 **THE COURT:** All right, Mr. McDonald.

17 **BY MR. MCDONALD:**

18 **Q.** Would you please state your name for the record?

19 **A.** Mathis Kearse Wright, Jr.

20 **Q.** And are you the plaintiff in this action?

21 **A.** Yes, sir.

22 **Q.** And where and when were you born?

23 **A.** I was born in Sumter County, Georgia, June 22nd,
24 1951.

25 **Q.** And what is your race, Mr. Wright?

1 A. Black, African American.

2 Q. And how long have you lived in Sumter County?

3 A. Basically all my life. I did move away for a
4 while when I was a baby. My parents moved to
5 Connecticut, but that was a short stay. Her parents
6 came and got me when I was about six months old, so
7 basically I grew up in -- grew up in Sumter County.

8 Q. Well, did you have a name change when you came
9 back to Sumter County?

10 A. Yes. Later on, my mother's parents -- parents
11 legally adopted me from -- from my parents so -- cause
12 that's -- my name was Mathis Kearce, Jr., and so that's
13 how it became Mathis Kearce Wright, Jr.

14 Q. And where did you attend grammar and high school?

15 A. Grammar school was Southeast Elementary School in
16 Leslie, Georgia, and high school was Sumter County High
17 School in Americus, Georgia.

18 Q. And what year did you graduate?

19 A. 1969.

20 Q. Were the schools in Sumter County racially
21 segregated when you attended them?

22 A. Yes.

23 Q. Now, were there any whites at all who attended the
24 schools that you attended and graduated from?

25 A. Two that I remember. It might have been a third

1 one, but I'm positive of two. And they were there from
2 -- they were part of the Koinonia Farms group, who were
3 basically sort of a -- I'm going to say white group of
4 people who kind of was -- had sympathy for the way
5 black people were being treated, so they had their
6 children there.

7 Q. Two or three students --

8 A. Yes.

9 Q. -- white students?

10 A. Yes.

11 Q. And were the rest of the students black?

12 A. Yes.

13 Q. And what about the teachers and principals, what
14 was their race in the schools that you attended?

15 A. All black.

16 Q. And when were the schools integrated in Sumter
17 County?

18 A. 1971.

19 Q. Now, when you were growing up in Sumter County
20 what were race relations like, that is, relationships
21 between whites and blacks?

22 A. Hmm, real bad.

23 Q. Can you elaborate on that? What do you mean real
24 bad?

25 A. Well, for one, we had to ride a school bus that

1 had the black fender on it, and they basically would
2 know that that was the, as they put it at that time,
3 the colored folk's bus. There were plenty of times
4 when there would be other white students or young white
5 males and older males, they would throw stuff at the
6 bus. But my worst situation --

7 **THE COURT:** I'm sorry. I want to understand
8 something. The school buses were painted differently?

9 **THE WITNESS:** Yes, sir. The --

10 **THE COURT:** In all my years, I've never heard
11 of such. I just had to stop him there, because I
12 wanted to be clear I understood what you were saying.

13 **THE WITNESS:** Yes, sir. The school buses for
14 black students had black fenders, and the school buses
15 for white students were all yellow. So that's how they
16 knew which bus was which, that it was a load of black
17 students, versus a load of white students.

18 **THE COURT:** All right. I just wanted to be
19 sure I heard him straight, because I don't think I've
20 -- I've heard many things. That's one I can say I have
21 never heard until today.

22 **MR. MCDONALD:** That's the first time I've
23 heard that too, Your Honor.

24 **THE COURT:** All right.

25 **THE WITNESS:** Well, it was -- you can check

1 it in the archives.

2 **BY MR. MCDONALD:**

3 **Q.** Well, other than buses, did the black students --
4 were they molested in any way by the white students?

5 **A.** Well, you know, like I said briefly about it was,
6 it was plenty of occasions when they would be lined
7 along the roads, and we -- it was regular that we got
8 eggs or something threw at the bus. So it was common.
9 It was sort of like business as usual.

10 **Q.** Well, did anything happen to any of the white
11 girls -- I'm sorry, the black girls who --

12 **A.** Well, yeah. Well, just before the Judge, that was
13 about to -- there was a black female friend of mine,
14 she was probably between 14 and 16, and I guess I must
15 have been about 11 to 12. And this afternoon after we
16 got home from school -- we lived probably two miles
17 apart, maybe three -- and, hmm, when she got off the
18 school bus that afternoon, she and her brothers, that
19 was the last time I saw her alive. That afternoon, it
20 was a store about 200 yards from her house, her mother
21 sent her to the store that afternoon, and she never
22 came back.

23 **Q.** Well, did you receive any violence from white
24 students at all yourself, or white people yourself?

25 **A.** Hmm, only during -- after, when I was

1 participating in the voter registration drives that I
2 was a part of, I got a lot of repeatedly N words, you
3 know, you better watch that, and you don't know what
4 you're doing. You better stay home. We see you out
5 here again, you know, you're going to turn up missing.
6 It was all sorts of threats about when we were doing
7 voter, voter registrations, canvassing, and that was
8 primarily in the Cobb, Lake Blackshear, Leslie and De
9 Sota area, which would be in the eastern part of Sumter
10 County.

11 Q. Well, how did you deal with that?

12 A. Well, I just had a strong grandfather who was part
13 of the Civil Rights Movement, and he just basically
14 kept us motivated and said it was, you know, that it
15 was worth fighting for. And that -- at that time there
16 was other reports of other black people homes being
17 shot in. There was some of our black relative friends'
18 homes actually got burnt down. Our home got burnt
19 down. But he always just said, you know, it was worth
20 fighting for, and that to -- that to never give up. He
21 was the -- he was the youngest of all of his siblings,
22 and he used to tell us that his dad named him Freeman
23 because he always wanted him to remember that he was a
24 free man. And so everybody grew up calling him Free.
25 And so -- and he was a farmer, and the lord had blessed

1 him to be successful, and once a month he would invite
2 all of the voter registration people from Albany and
3 all surrounding counties, and he would have a big
4 barbecue on the grill out there. And so, that was the
5 nature of how I grew up. It was like, don't ever look
6 back, and if you die, you die for it, but when you're
7 right, you stand up for what's right.

8 Q. Well, did you know how your house came to be
9 burned?

10 A. Well, it happened while we were all away from
11 home. I went to school that morning, and my uncle, his
12 -- as they said back in that day -- that he was the
13 knee baby's son, he was having some real serious kidney
14 problems, and the baby son, at that time they both were
15 in their twenties, and we -- they all were away in
16 Albany, here, matter of fact. One son gave the other
17 son a kidney, and so everyone was away from home. And
18 so it was never determined what started the fire, but
19 my granddad always felt like it was set.

20 Q. Well, how many other black houses were burned?

21 A. That I am aware of, two. And the ones that got
22 shot in that I'm aware of, three.

23 Q. Well, are you familiar with any white homes that
24 were burned or were shot into?

25 A. Not that I'm aware.

1 Q. Now, how did your grandfather get interested in
2 civil rights?

3 A. Well, he was -- I guess it was just, like I said
4 earlier, that his dad had told him that that's why he
5 had named him Freeman, that he was going to be free.
6 And he had always been independent and the lord had
7 blessed him to acquire a large farm, and so he was, I
8 guess, in some sense he was somewhat self sufficient.
9 And it was just one of the things that he was doing
10 that he had all of us doing from his children to his
11 grandchildren.

12 Q. Now, were you involved in any of the actual civil
13 rights marches in the 1960s?

14 A. Naw, I didn't never actually do any of the
15 marching in Americus.

16 Q. Now, you indicated that you did some voter
17 canvassing; is that correct?

18 A. Yes, sir.

19 Q. And how old were you when you were involved in
20 that?

21 A. Hmm, It had to be between, let's see 10, 11. I
22 had to be between 11, 13, 14, in that age range.

23 Q. Well, what sort of things would you do as you
24 participated in that canvassing?

25 A. Well, we would go house to house. Another

1 gentleman that was involved in it, his name was
2 Mr. Sam, last name Case, and he would be the one that
3 would be taking us around. It was three other young
4 blacks, two other males and one female. And he would
5 basically be with us sort of our chaperone or guard,
6 and we would get out and go. They would be on one side
7 of the road, and we would be on the other side of the
8 road. It wasn't really streets. And we would go home
9 to home encouraging people to go and register to vote,
10 because at that time some of the things were changing
11 about -- they didn't have to go through the strenuous
12 tests that had been put on black people in order to
13 register to vote. So it was just -- we went from door
14 to door, and then Mr. Case would be the primary one
15 that would go back and take them to Americus to the
16 voter registration office. We would basically set up
17 with them at a time that they could go. And then he
18 would be the one or someone else would go back and pick
19 them up that day and take them to the voter
20 registration office so that they could register.

21 Q. Well, did you experience any racial incidents
22 during your voter canvassing activities?

23 A. Well, no more than the -- you know, it became so
24 usual, you know, you kind of expected the threats. No
25 one never actually physically touched me or anything,

1 but the -- but, you know, the name calling was -- you
2 already knew you were going to get it when you went out
3 there because the way the roads are laid out, there
4 would be some black houses and then there would be some
5 white homes, you know, with white people. So you --
6 when you -- so you would skip their house, but many
7 times they would come out, and so, as you're going by,
8 you know, you got -- you know, you got the N word and
9 the curse words and catch you on this street, you'd
10 better not be seen after dark. I mean, it was just,
11 you just knew, you just kind of conditioned yourself to
12 get ready for it, but it was going to be every time you
13 went, you knew you were going to get it.

14 Q. Well, after you graduated from high school, did
15 you attend college?

16 A. Yes.

17 Q. And where did you go?

18 A. Georgia Southwestern.

19 Q. And did you graduate from there?

20 A. No, sir.

21 Q. Well, what did you do after you left college?

22 A. I got married.

23 Q. And did you have any children?

24 A. Yes. I'm married to -- matter of fact, my wife,
25 Linda Releford Wright, we've been married 44 years, and

1 we have six children, five daughters and one son.

2 Q. And did they attend school in Sumter County?

3 A. Yes. All of our kids went to the public school
4 system in Sumter County. Three of the daughters are
5 college graduates. The son is a graduate from West
6 Point Army school in New York. And so, you know, the
7 school systems is a good school system, you know, it's
8 just that, you know, I don't really get it why they
9 keep putting down the public school system so, because
10 if I just look at my own son, he came right out of that
11 school. It was 1,079 students in his class from
12 everywhere. At West Point he, academically, he was
13 number 477. Militarily, he was number eight, meaning
14 that he was the eighth highest ranking officer on the
15 campus, and he came right out of that system in Sumter
16 County and competed with people from all over the
17 world. So, you know, what else can I say about it?

18 Q. Well, the schools were desegregated by the time
19 your children enrolled?

20 A. They were supposed to be desegregated, but at the
21 time my kids were going through there, it was almost
22 like it was when I was going. There were some white
23 students there, and he did have -- and they did have
24 some white friends, but from my recollection in his
25 class -- and someone said, well, how did you notice

1 that, because I was always civil rights oriented and I
2 just looked at things differently from other people.
3 But in their graduation class, their class was easily
4 82 percent black and maybe 12 percent white, and then
5 the other part was other.

6 Q. Well, when you were growing up and before you went
7 off to college, did you have any meaningful
8 relationships with any people in the white community in
9 Sumter County?

10 A. Outside of two that went to the school where I
11 graduated from, Sumter County, no. And that was --
12 that was the difference between what I would say how
13 white people got treated when they came into a
14 predominantly black school and opposed to a black
15 student going to a predominantly white school. And I'm
16 only making this reference because my first cousin went
17 to Leslie Georgia at Union High, and Union High was a
18 predominantly white school, and some of the things he
19 used to tell me that he used to have to endure, from
20 getting, you know, urine dashed on him to his books
21 been torn up and all sorts of things like that.
22 Wherein we, when I say we, the black students at Sumter
23 County, we basically welcomed them in, embraced them,
24 treated them just like you treat anyone else.

25 Q. And you are referring to the students from

1 Koinonia?

2 A. Right, the two students. So outside of those two,
3 they were about the only two, let's say white people,
4 that I really had any real dealings with.

5 Q. Now, what employment have you had?

6 A. I worked for Textron, which was an automobile
7 industry, and I was on the management level there. And
8 during that time while I was there, I ended up actually
9 filing an EEOC complaint about job discrimination. And
10 the late C. B. King, after it went through the EEOC
11 process and they found cause, the late C. B. King was
12 the one that was representing me in that particular
13 lawsuit.

14 Q. Well, did your EEOC complaint have any positive
15 impact?

16 A. It did at that particular company, but it didn't
17 have a positive impact on the community.

18 Q. And explain your answer in a little more detail if
19 you will?

20 A. Well, at the company, the company then started
21 looking more, I want to say broadly, at promoting other
22 blacks who were qualified after the -- after the EEOC
23 had found cause, and that they put the injunction in
24 for them to stop that type of behavior in their
25 promoting -- promoting and hiring process. But then in

1 the community itself, you would still -- you would
2 still -- you get those, hmm, the same treatment from
3 other segments of the community. You know, you always
4 got treated different when you went in the stores. You
5 got treat -- you know, even though the law was passed
6 that you could go in the front, you might have -- you
7 might have went in the front, but you still was black,
8 you know, and you got treated a little bit different
9 from your white counterparts. And then that became
10 sort of expected, and so you sort of, you know, so you
11 know you are going to get it, so then we got kind of
12 complacent with it, and you got kind of, you know, you
13 never really get comfortable with it, but you just do
14 it because it's what -- it's what you expect to happen.

15 Q. Well, did you have subsequent employment?

16 A. Oh, yeah, after I left Textron we opened up, we
17 went into -- we opened up a business called Dixie
18 Bakery, Catering and Diner, and then we did that for 20
19 plus years all the way up until I retired.

20 Q. Well, have you been doing any work for any public
21 interest organizations?

22 A. Well, yeah. Well, now I am president of the local
23 NAACP in Americus. I am president of the Local 2194
24 IBEW Union. I'm president of the Pastors and Layman's
25 Organization. I am a member of the Middle Flint Work

1 Force Development.

2 Q. Well, what have you done as a result of your work
3 with the NAACP in Sumter County?

4 A. Hmm, well, one of the issues we fought was against
5 the white school board in 2008, when it was the
6 majority white school board. A family came and said
7 that they believed that the white teachers were
8 changing their daughter's grades, and that -- that it
9 was a effort to prevent their daughter from being
10 valedictorian. And so, they were very, very adamant
11 about it, so we decided to look into it and started
12 doing the investigation. So for sake of time, long
13 story short, we did find evidence that that had
14 occurred. At that time, the majority white school
15 board, we presented them with the findings that we had,
16 and we were basically brushed off, ignored. So we
17 filed a complaint with OCR, and then OCR accepted the
18 complaint, then they came in and did a investigation.
19 And then they found out that not only had they -- that
20 the information was true, that they had been changing
21 the black student's grades, but they found that, as far
22 as the law would let them go back, which was eight
23 years, they found that they had been doing it for eight
24 consecutive years that they had been changing black
25 students' grades to assure that they would always have

1 a white valedictorian. And then, they were also
2 withholding the -- let's see, what is his first name.
3 His last name was Byrd. It was some type of a
4 scholarship. They found out that they were only
5 offering that to the white students, because that was
6 something we didn't even know about, but when they
7 started and did the investigation, they found out that
8 there was that particular scholarship was only being
9 offered to the white graduating students who were
10 there, which was that small little majority of
11 students, but you got this big black -- this big number
12 of black students, and they wasn't even being made
13 aware and offered to get this particular scholarship.

14 Q. Well, what year was that investigation made and it
15 found --

16 A. 2008, and it concluded, if I remember, around
17 December 2009.

18 Q. Are you still active with the NAACP?

19 A. Yes, sir.

20 Q. And how long have you been a minister?

21 A. Let's see, 2012. Five years.

22 Q. Okay. And what church are you the minister -- are
23 you the pastor of?

24 A. New Union Grove Baptist Church in Americus.

25 Q. And does your wife have any position in the

1 church?

2 A. Say that again.

3 Q. Does your wife have any position in the church?

4 A. Oh, yes, sir, she's the co-pastor.

5 Q. And is your church integrated?

6 A. No, sir.

7 Q. How many members are there?

8 A. 35.

9 Q. And are they -- none of them are white?

10 A. No.

11 Q. And why do you think that is the case?

12 A. Well, it's not just -- because basically, pretty
13 much, white people go to white churches, and black
14 people go to black churches, and we just don't. You
15 know, it's not a whole lot of integrating going on
16 period, you know, at all.

17 Q. Well, are there private clubs in Sumter County
18 that you are familiar with?

19 A. Yes.

20 Q. And are they integrated or segregated or what?

21 A. Well, they -- they have a -- they have, like most
22 places, they have this, hmm, let's say this policy that
23 they say that they are for affirmative action, or we
24 don't discriminate for race, color, creed, and all
25 that, you know, that's in place, but as far as I know

1 about the Lounge Club or the Kiwanis Club, there's
2 probably maybe just a few black members. And then, if
3 I take the branch where I'm at in the NAACP, there's
4 just a few white members.

5 Q. Okay. Now, have you run for a political office in
6 Sumter County?

7 A. Yes, I have.

8 Q. And what did you run for and when?

9 A. It was in 2006, and I ran for district four,
10 county commissioner seat.

11 Q. And why did you run?

12 A. Well, at that particular time I felt like I could
13 help make a difference in the -- in the community, that
14 there was some things going on in the community that I
15 had identified with the then county commissioner who
16 was in my district. And basically he had pretty much
17 blew me off, so then I decided, well, then I'll run for
18 the seat and see if I couldn't make a difference.

19 Q. Well, how did you do in the election?

20 A. Well, it was a three-man race. There were two
21 white males, the incumbent, Tift Pace and the other
22 challenger was Randy Howard, and so it ended up in a
23 runoff between Randy Howard and myself. And on the day
24 of the election, all the way to -- they got to the part
25 where they brought the votes out of the back from what

1 they call the absentee ballots, which is -- has been
2 where Randy Howard has always won, even when he was
3 sheriff when we use to challenge some of his -- some of
4 his people that he would have on absentee ballots. It
5 was even discovered that there was some that was even
6 deceased, and it was reported to the secretary state
7 office, and those challenges were put in place. But,
8 anyway, long story, I ended up losing to him after they
9 had counted the absentee ballots. During that
10 campaign, he had made a complaint about one of my signs
11 on someone's truck that was at the, uh, at the voting
12 poll, and he went down within the -- in the, uh, within
13 the 40-foot district, feet district, of the polling
14 place, and he stayed within that, standing on the
15 outside of the polling place, which was -- he stayed
16 there about 43 minutes. And so my complaint was, you
17 know, it didn't take that long for him to go down just
18 to complain about a sign, and that he had violated, you
19 know, the rule. He had taken advantage of it just
20 because someone that was parked had my sign on the side
21 of their truck. Long story short, anyway, I challenged
22 it, and I ended up going to jail about it.

23 Q. So how did you go about challenging it?

24 A. Well, I challenged it that I stood there too, and
25 so they came and got me for standing there and saying,

1 basically, I said if he could do it for 43 minutes, I
2 should be able to do it for 43 minutes, that if you are
3 not going to do anything to him, then you shouldn't do
4 anything to me, but he never went to jail, but I did.

5 Q. Well, do you think that was racially motivated
6 against you?

7 A. I know it was racially motivated.

8 Q. Well, let me ask you a question. In 2006, when
9 you ran for county commission from district four, what
10 was the racial composition of that district at that
11 time?

12 A. It was, if I remember correctly, 2006, that
13 particular district was pretty close. That was one of
14 the reasons why, after we had looked at it, that we
15 thought that we had an opportunity to win it. We
16 actually looked at it and thought that there may have
17 been a few more black voters in that district than what
18 we had originally -- had been thinking, that it was
19 more heavily white concentrated, but evidently they
20 must have moved out or something. But, long story
21 short, that was the determining factor was that we
22 thought it was enough black voters there to where we
23 might win it.

24 Q. Now, let me just make sure I understand what
25 you've previously said in one of your answers, that the

1 candidate who actually won that election had claimed
2 some absentee ballots by people who were dead?

3 A. Yes.

4 Q. And how many of those ballots do you think there
5 were?

6 A. Well, the only ones that we actually got our hands
7 on was two.

8 Q. Okay. And what was the vote count in the runoff?

9 A. The final count was -- it was less than a hundred
10 votes that separated us. But going into that part, I
11 was leading before -- before the absentee ballots, I
12 was leading.

13 Q. Now, were there any racial incidents involved in
14 your campaign?

15 A. Oh, yes, cause we really campaigned hard. My
16 relatives came from out of town, people that --
17 friends, all my children who were within -- within 200
18 miles would come every weekend. And we went to every
19 single person, home in the district, and -- but on this
20 one occasion this -- this white family sicced their
21 German shepherd on the -- on one of my daughters during
22 one of the times. And then there were other times
23 when, you know, they just basically said, you know,
24 sorry, but, you know, we don't vote for -- and they
25 said the N word. And then there was a couple of

1 incidents where they said don't come on my property.

2 Q. Well, did you challenge the outcome of your
3 election?

4 A. Yes, we did.

5 Q. And why did you do so, and what was the outcome?

6 A. Well, we did so because we felt like that the
7 election had been stolen, based on the information and
8 the facts that we had. We got a copy of who all had
9 voted. We know just about everyone -- when I say know
10 everyone, not all the white citizens in that district,
11 but we basically can say pretty closely that we know
12 every black person in the district. So we got the list
13 and we went through it person by person, and we
14 separated out all the black voters from what was left.
15 So we said then, if every white person voted for me,
16 this is how many votes I would have had, and if no
17 white person voted for me, this is how many he would
18 have had. So that's how we kind of said, well, then,
19 something -- something just ain't right because the
20 numbers just was not adding -- adding up to come out to
21 what the results were. So once we filed the complaint
22 with the Secretary of State office, it's done pretty
23 much like other instances. We have filed plenty of
24 complaints with the Secretary of State offices about
25 voting right issues. And they -- you know, for black

1 people, justice is just hard to get. You know, many
2 times we end up -- we don't actually end up fighting
3 the people who we are actually challenging, we ending
4 up fighting justice, just to get justice to do right.
5 So that's really what happened. We had the evidence,
6 but they still did nothing.

7 Q. The Secretary of State took no action on your
8 complaint --

9 A. Took no action --

10 Q. -- is that what you said?

11 A. -- didn't sanction nobody, just basically swept it
12 under the rug, and so -- so, what do you do?

13 Q. Now, you talked about charges that were filed
14 against you for putting up a sign in a polling place.
15 How were they ultimately resolved, those charges?

16 A. They said for -- well, I was looking forward to
17 that trial, because I knew that the Secretary office
18 was going to have to come, but the district attorney
19 dropped all charges, and said he did it for the -- for
20 the best interest of justice. And I may not pronounce
21 it correct, he did what is called a nolle prose or pros
22 or something like that and just dismissed it and said
23 for the best interest of justice.

24 Q. Well, do you plan to run for office again?

25 A. Well, no, I kind of like what I'm doing now. I

1 can do -- I can help more people from the position I'm
2 in now than if I get tied into a voted-in position. I
3 wouldn't have as much freedom.

4 Q. Well, as someone who has lived all of his life in
5 Sumter County, you've been involved in NAACP and
6 politics, how would you describe race relations in
7 Sumter County today?

8 A. Well, they are worse than they were to me in 1969,
9 because in 1969 I knew exactly what to expect. I knew
10 how they were going to deal with it. Today, the racism
11 is so subtle. They -- they will, as my granddad used
12 to put it, and excuse this expression, he used to
13 always say, stop peeing down my back and telling me
14 it's raining. And that's what we get all the time.
15 They basically make it seems like everything is fine
16 and dandy, but everything ain't fine and dandy at all.
17 The complaints that comes into the office about job
18 discrimination, since 2008 they have almost doubled.
19 At the Equal Opportunity Commission, in 2010, they
20 reported that since their conception in 1975, they had
21 more complaints about job discrimination in 2010 than
22 they had ever had. And then, 2011 exceeded '10. '12
23 exceeded '11. '13 exceeded '12. '14. So all the
24 numbers says that it is getting worse.

25 Q. Well, have you received any complaints about the

1 lawsuit that you have filed that we are having a trial
2 on today?

3 A. Well, yes. What happened, there was, hmm, the,
4 uh, radio station was the primarily one. They had
5 broadcast that because of the lawsuit that I had filed,
6 citizen taxes was going to go up; if you don't get a
7 raise, Mat Wright is going to be to blame. If you, uh,
8 if the roads and inter structure are not being paved
9 and resurfaced, Mat Wright is going to be to blame.
10 He's the one that you are going to be able to thank for
11 all of the negativities that may not happen. And then,
12 after that -- I always get a few, you know, a little
13 bit of hate mail, but after that it spiked pretty good
14 there in the office. It was coming -- most of it came
15 through on the Sumter Observer's email and, you know,
16 so then I had to call the radio station and talk to the
17 owner and tell him, you know, that they had to pipe
18 that down, you know, that people, you know, I could --
19 seriously I could get hurt, somebody take it the wrong
20 way and that type thing.

21 Q. Well, are you aware of any problems that black
22 students have had in the public schools, violence or
23 anything like that?

24 A. Yes. Well, one involved a white female teacher
25 that had hit two young black students, one was a male

1 and one was a female. And again, when you try to get
2 justice for people -- we were able to get the sheriff
3 office to get a warrant for her for simple battery, but
4 we filed a complaint with the Professional Standards
5 Commission to try to get her sanctioned about what she
6 had done. And ironically, just to show you how things
7 work, the same day that she pleaded guilty to simple
8 battery, the Professional Standard Commission issued
9 their decision that they couldn't find nothing wrong.

10 Q. So what ultimately happened to that teacher?

11 A. Well, by it was a simple battery misdemeanor, and
12 then they didn't take any actions to suspend her
13 teaching certificate, the last time I heard about her
14 she was -- she was still teaching, but she just wasn't
15 teaching in Sumter County. She was teaching in another
16 system.

17 Q. Yeah. Well, do you think that blacks in Sumter
18 County have a depressed socioeconomic status compared
19 to whites?

20 A. Yes.

21 Q. And what do you base your opinion on?

22 A. Well, when you look at the average black kid, most
23 of them are walking, most of them are unemployed, most
24 of them don't really have a whole lot to look to in
25 Sumter County. Even that happened with my own kids,

1 they had to move away to find decent work somewhere.
2 And so then when you look in the white community I
3 think, you know, it's like -- it's like day and night,
4 most of them either have access to automobiles, most of
5 them have access to, you know, funding to do different
6 things, to go different -- things. So when you put
7 those things together, you create a situation where the
8 poor blacks don't have anywhere to turn to. I mean,
9 even in Americus, I mean, Americus don't even no longer
10 -- don't even have a movie theater anymore. They can't
11 even outlet to just to go watch a movie. So you really
12 hustle and you work real hard trying to motivate them
13 and get them to come to different events. We sponsor
14 different events in the parks where they live, in their
15 communities to try and motivate them that there is a
16 better life, but it just may not be in Sumter County.

17 Q. Well, does that have an impact in any way upon the
18 ability of blacks to participate in the political
19 process in Americus and Sumter County, in your
20 judgment?

21 A. No.

22 Q. It has no impact?

23 A. That don't. Not what I just described don't,
24 because, you know, they -- they have it so the
25 oppression is so, so subtle, but yet so devastating

1 that it -- it have them almost numb, you know, they
2 just don't do it. And you -- and you -- and the
3 motivating factors, I mean -- I mean the whole purpose
4 of the 5/2 plan was to readdress to take things back,
5 because things were moving one way in the school system
6 and that whole 5/2 plan was just to undo what was --
7 some of the progress that had been made.

8 Q. Well, be a little more specific. What do you
9 think the underlying purpose of the 5/2 plan was, why
10 it was adopted and what its impact would be?

11 A. Well, the impact was to the white community wanted
12 to have control of the school board, and everything has
13 come down, as we're talking about, economics. Well,
14 the school system has probably the largest or one of
15 the largest budgets in the entire county. So
16 therefore, when you control the money, you control
17 basically what goes on, what curriculum you teach,
18 those different -- because like we were pushing, before
19 this, before they -- before they dismantled the black
20 school board, we were really seeking to get what is
21 called STEM where -- because you have a lot of black
22 students, in particular, they may not be great in the
23 book, but they are great hands on. If you can teach
24 them a skill, and that's what STEM is all about. So
25 things were moving in that direction, but as soon as

1 they flipped it, that stopped. You can't hardly get
2 them to talk to you about STEM anymore. So, you know,
3 it's just, you know, I mean, it's just sad.

4 **Q.** Well, do you think that the House Bill 836, which
5 adopted the 5/2 plan, that it was racially motivated in
6 any way?

7 **A.** Oh yeah, I mean, certainly the --

8 **MR. BRADEN:** Your Honor, I would object to
9 that question. It's total speculation on his part and
10 motive isn't an issue here.

11 **THE COURT:** If you're asking motive, if you
12 can lay a foundation, otherwise the objection is
13 sustained.

14 **MR. MCDONALD:** Yeah, I -- I'll ask him what
15 the foundation is for his view, what he bases his view
16 on.

17 **THE COURT:** Well, ask him what he knows about
18 how this was determined and then you can ask his
19 opinion following that, not the other way around.

20 **MR. MCDONALD:** Okay.

21 **BY MR. MCDONALD:**

22 **Q.** Well, do you have any knowledge of the reason why
23 the House Bill 836 plan was adopted?

24 **A.** Yes.

25 **Q.** What is your knowledge?

1 **A.** I had a long talk with the author of the bill,
2 which is Mike Cheokas. So what I'm about to say is not
3 something I heard; it's something he and I talked
4 about. And also, the signer of the bill, which was to
5 help get it through, which was Ms. Freddie Powell Sims,
6 and I talked to her personally. So what I'm about to
7 say is not hearsay. It's where we actively had
8 conversations about it. With Mike Cheokas, I said,
9 well, why are you going to do it, and he said, well,
10 basically my constituents want --

11 **MR. BRADEN:** Your Honor, I've got to object.
12 If we want to hear why he did it, we'll have to call
13 him.

14 **THE WITNESS:** Okay. Well, then --

15 **THE COURT:** Well, just a minute, Mr. Wright.
16 What was -- did you complete your statement?

17 **MR. MCDONALD:** Well, I'm not sure. What was
18 the objection?

19 **MR. BRADEN:** My objection to this is it's
20 hearsay. If we want to understand why the member voted
21 for it, assuming, of course, he can get past the
22 legislative privilege issue, we actually need to call
23 him.

24 **THE COURT:** Just so we can move along, I will
25 allow it for the purpose of what he says was told him

1 but not to prove the truth that it was the motive
2 because that is not evidence of the motive.

3 **MR. MCDONALD:** Well, it's evidence of his
4 knowledge, Your Honor.

5 **THE COURT:** No. No, it's not evidence of his
6 knowledge, because his -- a statement, a hearsay
7 statement can't be presented for the truth that it
8 asserts. He can say this is what he heard, if that's
9 what you want to tell me, if that's what somebody said
10 to him, but to prove that that was the motive for doing
11 what was done, that is not probative of that question.
12 You'd have to present the direct evidence of that.

13 **MR. MCDONALD:** Well, Your Honor, if he can
14 just finish his answer, the Court can give whatever,
15 you know, relevance to it deems appropriate.

16 **THE COURT:** I will allow it for the purpose
17 of him saying what was said to him, but I will not
18 accept it as proof that that was the truth of what was
19 the motive of the change.

20 **MR. MCDONALD:** I understand, Your Honor.

21 **THE COURT:** -- understand what I'm saying?
22 All right. So we may get completed. You may go ahead.

23 **BY MR. MCDONALD:**

24 **Q.** Can you finish your answer?

25 **A.** He said that it was his constituents --

1 Q. That what?

2 A. His constituents, you know, the people. And I
3 said, how many constituents did you talk to, because
4 everyone that I'm talking to that's in the black
5 community is against it. And so, we had conversation
6 along those lines, and so he says, well, it's just the
7 best thing to do for the community. And I said, well,
8 you know, a 5/2 plan is not the best thing for the
9 community. I can see if you go with a seven-member --
10 single member district, but not at -- but no at-large
11 seats. So it went from there, and then with Ms. Powell
12 Sims, when we had our conversation, she basically said
13 she would not sign it, but in the end she did. And
14 that is whole reason I filed the -- when I say the
15 reason I filed the complaint in the whole beginning pro
16 se was that I felt that it was a -- that it was
17 racially motivated, that it was -- that it had come
18 about to create a situation where black people could no
19 longer select the candidate of their choice.

20 Q. Well, do you think that voting in Sumter County is
21 racially polarized?

22 A. Yes.

23 Q. And what do you base that opinion on?

24 A. Well, when we basically looked at the numbers
25 after an election, and, like I said, in a small

1 community like ours you basically know everyone, so
2 when you look at the votes and you look at how many
3 votes they actually received, you can -- you can then
4 make that -- make that decision pretty much without
5 having a flaw, because you can count the votes, and you
6 can see that basically everybody you know who was
7 black, and everyone else, if you make them be white,
8 and you look at how many votes that person got, you
9 basically see that they got most of the black votes.

10 Q. Okay. Well, do -- are you familiar with the
11 phrase, Gang of Six?

12 A. Yes.

13 Q. And what does it refer to?

14 A. It referred to the Sumter County School Board
15 members that were all black, African Americans.

16 Q. And did you approve of that phrase or designation
17 or characterization?

18 A. No, I didn't approve of it at all. I mean, I
19 thought it was, you know, was one they say that -- I
20 guess for lack of a better word, that was like a blow
21 below the belt.

22 Q. Well, blacks are the most of the voting age
23 population, but can any person vote simply because they
24 are a voting age population in Sumter County?

25 A. Well, naw. They can't because you have to take

1 into account that a lot of those particular people,
2 hmm, have criminal records, felony records, I mean, and
3 I know a bunch of them, because that's another thing
4 that we try to educate them on is that just because you
5 have a felony, in many cases, if you go back and
6 reregister, there is a possibility that you may be able
7 to get reinstated. But just because you are in that
8 particular age group, that doesn't mean that you are
9 necessarily eligible to vote just because of your
10 criminal history.

11 **MR. MCDONALD:** Okay. Thank you very much.

12 **THE COURT:** All right. Cross examination,
13 Mr. Braden.

14 **CROSS EXAMINATION**

15 **BY MR. BRADEN:**

16 **Q.** Good afternoon, Reverend Wright, Mark Braden. Do
17 you know whether the black registration rate in Sumter
18 County is higher than the white registration rate?

19 **A.** Do I know -- again?

20 **Q.** Do you know whether more blacks are registered to
21 vote in Sumter County than white folks?

22 **A.** No.

23 **Q.** Did I understand that you were -- you testified to
24 having a meeting with Ms. Powell Sims about the
25 legislation changing the school board?

1 A. Yes.

2 Q. And what's her position?

3 A. She's a state senator.

4 Q. And does she -- what area does she represent?

5 A. She represent the northern portion of Sumter
6 County.

7 Q. Uh-huh.

8 A. And then Terrell County and something else.

9 Q. And is she an African American?

10 A. Yes.

11 Q. And you had a lengthy conversation with her about
12 the bill?

13 A. It wasn't that lengthy. It was a phone call, and
14 we -- and I basically told her what I thought about it,
15 and she said that she would not sign it because it was
16 not presented on the floor correctly, and then that was
17 the basis of it, and that was it.

18 Q. Do you know whether she voted for the bill or not?

19 A. I know she signed it.

20 Q. She agreed to it then?

21 A. Yes.

22 Q. So she supported the change?

23 A. Yes.

24 Q. Do I understand correctly that -- and I'll do this
25 characterization, and if it's not fair, please let me

1 know -- that you felt you were robbed in one foray into
2 politics?

3 A. I almost knew I was robbed, more than felt.

4 Q. Did you file for a recount in your election?

5 A. Yeah, I mean, like I said, when you're black you
6 can do all of that.

7 Q. I'm sorry. I was just --

8 A. I mean, I'm just telling you, and you asked the
9 question.

10 Q. I understand. I'm just asking a very
11 straightforward, simple question. There's a procedure
12 when you lose a close election to file for a recount.
13 Did you file for a recount?

14 A. Well, no, we filed a complaint with the Secretary
15 of State office, because we could not get all the
16 access to those absentee ballots, and we knew they
17 could, and so that's the way it went. If it had have
18 been on the --

19 Q. Excuse me. It was a simple --

20 A. -- on the computers --

21 **THE COURT:** Just one minute.

22 Q. It was a very simple question that could have been
23 responded to by yes or no: Did you file for a recount?

24 A. And I'm giving you my simple answer.

25 Q. Yes or no?

1 A. Recount. I filed a complaint with the Secretary
2 of State office.

3 Q. Do you know whether there's a distinction between
4 filing a complaint or asking for a recount?

5 A. Say that again.

6 Q. Do you know whether there's a distinction in the
7 election law between filing a complaint or filing for a
8 recount in your election?

9 A. Yes, I know the difference.

10 Q. Okay. Did you file for a recount in your
11 election?

12 A. No, I didn't file for a recount.

13 Q. Thank you. Do you believe that the black
14 community in Sumter County should have the opportunity
15 to elect a majority on the school board?

16 A. I think you need to rephrase that.

17 Q. Do you believe that the black community in Sumter
18 County should have an opportunity to elect a majority
19 on the school board?

20 A. Do I believe that the black community -- for some
21 reason, I'm having a problem hearing you.

22 Q. Sure. Let me try it one more time. Do you
23 believe that the black community of Sumter County
24 should have an equal -- let's say the word -- an equal
25 opportunity to elect a majority on the school board, a

1 majority of members of the Sumter County School Board?

2 **A.** Yes, with the word equal, yes, I agree to that.

3 **Q.** So it's important for them to have a majority,
4 correct?

5 **A.** It's important for them to have an equal right to
6 elect the majority.

7 **MR. BRADEN:** No further questions, Your
8 Honor.

9 **THE COURT:** All right. Is there any
10 redirect?

11 **MR. SELLS:** I just have one or two, Your
12 Honor.

13 **REDIRECT EXAMINATION**

14 **BY MR. MCDONALD:**

15 **Q.** Reverend Wright, are you familiar with the turnout
16 levels of black and white voters in elections in Sumter
17 County?

18 **MR. BRADEN:** Objection, Your Honor. That's
19 outside the scope of --

20 **THE COURT:** What does the turnout level have
21 to do with the cross examination? Just help me
22 understand how it's related.

23 **MR. MCDONALD:** Well, because he asked him a
24 question about whether blacks were registered at higher
25 rates than whites, and I just want to see if he knows

1 what the actual turnouts are, because I think that's
2 relevant to that.

3 **THE COURT:** I'll give you a chance and let's
4 us see. I mean, they are not totally unrelated, but
5 it's pretty close to the line. Go ahead.

6 **MR. MCDONALD:** Okay.

7 **BY THE WITNESS:**

8 **A.** Right now today, I'm not.

9 **BY MR. MCDONALD:**

10 **Q.** You're not?

11 **A.** Nuh-uh.

12 **MR. MCDONALD:** Well, there's plenty of
13 evidence that's been introduced in the record, Your
14 Honor.

15 **Q.** Has it been your experience, during all of the
16 years that you have been around, that black politicians
17 sometimes will vote for rights that are bad for black
18 people?

19 **A.** Say that -- since my experience is it sometimes
20 that -- that white --

21 **Q.** No, that a black elected official will vote for
22 something that is bad for the black community or black
23 voters?

24 **A.** Yes.

25 **Q.** And do you believe that blacks should have an

1 equal opportunity to participate in the political
2 process and elect representatives of their choice?

3 **A.** Yes.

4 **Q.** And do you know whether or not that is precisely
5 -- that's precise language contained in Section 2 of
6 the Voting Rights Act?

7 **A.** Yes.

8 **Q.** And do you believe that Section 2 protects that
9 right?

10 **A.** Yes.

11 **MR. MCDONALD:** Thank you very much.

12 **THE COURT:** Is there any further recross?

13 **MR. RAILE:** No, Your Honor.

14 **THE COURT:** All right. You may step down
15 Reverend Wright. I just will note that, as Reverend
16 Wright made reference, that he started this case out
17 pro se with a hearing in Macon, Georgia years ago, and
18 it's been all the way to the court of appeals and back
19 and in a full trial, so I must that say that's not the
20 track of most pro se cases. Without any suggestion one
21 way or the other about the case, I thought that was
22 significant to note. All right. You may call -- we're
23 really at the end of the day, so is there any
24 additional witness? Where does the plaintiff stand
25 with this case?

1 **MR. SELLS:** Reverend Wright is our final
2 witness in our case in chief. We have some exhibit
3 issues, and we can either try to start dealing with
4 them now. I'm not sure we would finish before 5:00 or
5 we can deal with them first thing in the morning.

6 **THE COURT:** All right. I'll tell you what.
7 Let's go ahead and give you all a chance to get
8 together, and it may be that -- I think you all can
9 take the opportunity to share what those submissions
10 are going to be. So that may solve some of the things
11 that I might otherwise have to decide tomorrow morning.
12 So we'll just suspend now and start back tomorrow
13 morning. If you all allow them to remain in the
14 courtroom so they may review these documents for a bit
15 of time, and we'll start back at 8:30 tomorrow morning.
16 As soon as those things are taken care of, if there are
17 no other matters to be taken up by way of motion, then
18 we will be ready to start the defendant's case. All
19 right. Thank you, very much. We are adjourned until
20 8:30 tomorrow morning.

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CERTIFICATE OF OFFICIAL REPORTER

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5 /s/ SALLY L. GRAY
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